



NJEIF In-Person Meeting

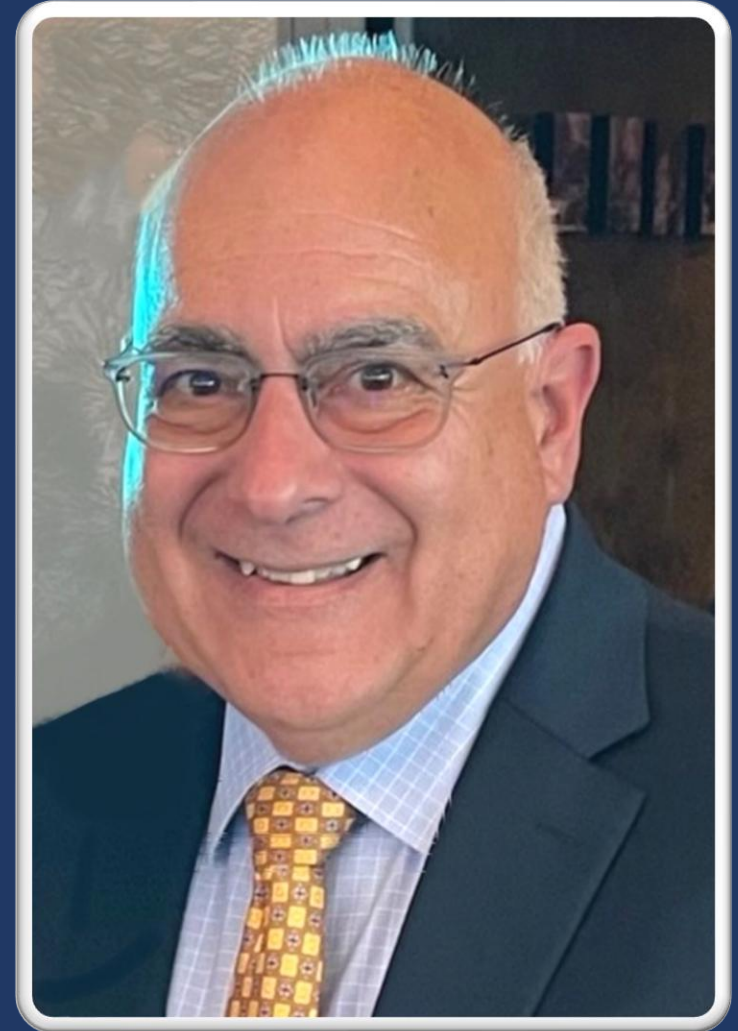
School Athletics: A Comprehensive Plan for Addressing Legal Liability and Promoting Student Safety

Thursday, April 3, 2025

WELCOME

Dr. Anthony Dragona

NJEIF Sub-fund Chairperson
Union City BOE



SUB-FUND COMMITTEES & CHAIRS



Dr. Anthony N. Dragona
Union City BOE



Steven Somick
North Bergen School District



Keith A. Rosado
Westwood Regional School District

SUB-FUND ADMINISTRATOR REPORT

Latonya Brennan

NJEIF & ERIC North Sub-fund Administrator

NJSIG

Senior Executive Vice President – Regional Director

Arthur J. Gallagher



CONTINUING EDUCATION CREDITS

2 QPA | Office Administration & General Duties
Course Code 17266

CEC EVALUATION FORMS

Please find the forms in your **MEETING FOLDER**.

At the conclusion of today's meeting, hand all completed forms to **any Sub-fund Representative**:

- Latonya Brennan
- Dan Regan
- Barbara Fitzpatrick
- Amanda DeNapoli
- Eva Jakowluk

Certificates will only be granted to those who return their forms.

**Certificates must be
returned at the end
of the session to
receive CEC credits!**

NJSIG UPDATE

Joanna Radomicki

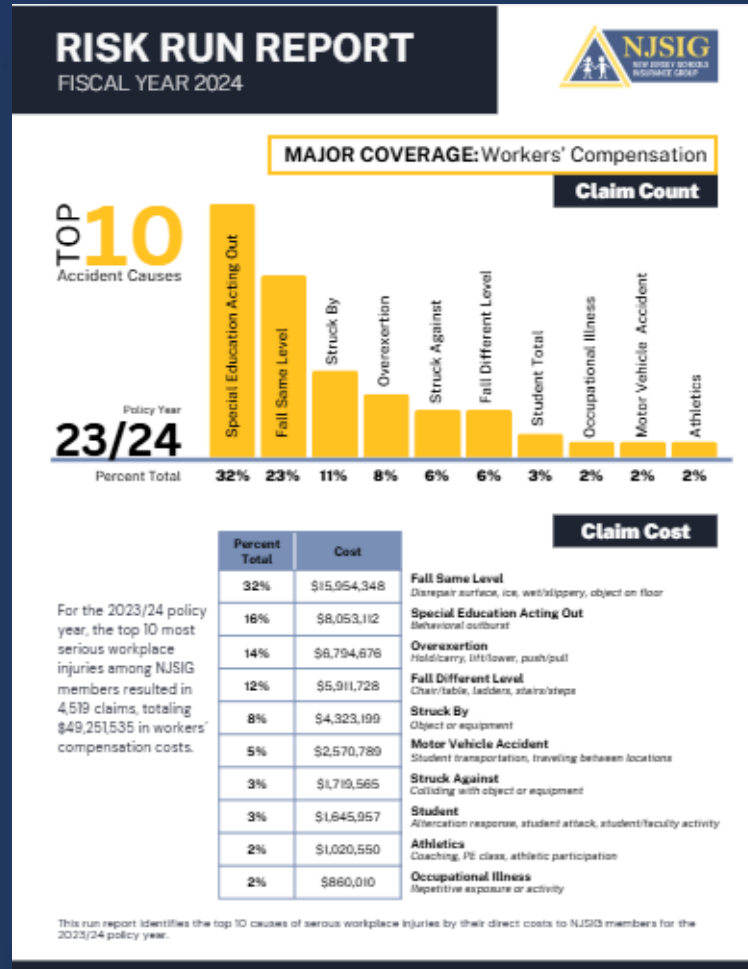
Member Services & Loss Control Representative

jradomicki@njsig.org

609-386-6060 x3029



RISK RUN REPORT



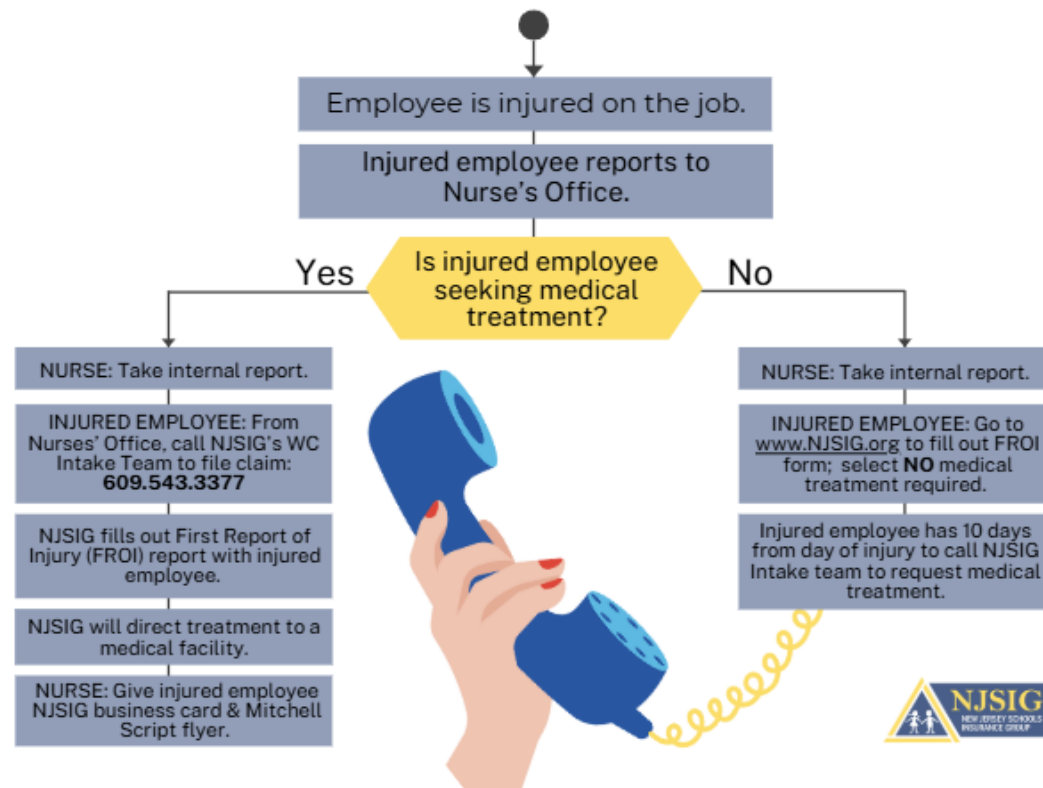
Trainings for Improving Workplace Safety

NJSIG is committed to helping its members in improving workplace safety. We have partnered with **Vector Solutions**, the leading training system for schools, to provide high-quality courses on critical safety, prevention, and special education topics. These trainings are available to our members at no additional cost. To learn more about all the courses Vector Solutions has to offer, or for any additional information, email riskcontrol@njsig.org.

Claim Cause	Vector Solutions Category	Vector Solutions Training Courses
Special Education Student Acting Out	Special Education	<ul style="list-style-type: none"> Special Education Support Staff: Safety and Injury Prevention Special Education: Safety in the Classroom Special Education: Lifts and Transfers
Fall: Same / Different Level	Environmental	<ul style="list-style-type: none"> Slips, Trips, And Falls: Teachers & Administration Slips, Trips, And Falls: Refresher Slips, Trips, And Falls: Support Staff Fall Protection Slips, Trips, And Falls (4) Ladder Safety Scissor Lift Safety Aerial Lift Safety
Struck Against/By	Environmental / Human Resources / Security	<ul style="list-style-type: none"> Classroom Safety Workplace Injury Prevention Conflict Management: Student to Student Conflict Management: Staff to Staff Workplace Bullying (2) Safety Basics for Security Staff
Occupational Illness & Overexertion	Environmental / Health	<ul style="list-style-type: none"> Back Injury and Lifting (3) Office Ergonomics Workplace Injury Prevention General Safety Orientation Common Illness Prevention
Motor Vehicle Accident	Transportation	<ul style="list-style-type: none"> Defensive Driving Transportation Safety Distracted Driving Bus Behavior & Discipline
Student Altercation	Social & Behavioral	<ul style="list-style-type: none"> Disruptive Student Behavior Hazing De-Escalation Strategies
Athletics	Athletics	<ul style="list-style-type: none"> Athletic Liability Concussion Awareness: Athletics Sport Supervision & Safety

RECENT INTAKE TRAINING

Workers' Compensation: CLAIMS FILING



SAFETY FLYER

Safety Committee Meeting



DISTRICT: NJSIG MEMBERSHIP

DATE: April 2025

Workers' Compensation Cause of Loss Summary by Occupation

Occupation	2020-2021		2021-2022		2022-2023		2023-2024		2024-2025		ALL YEARS	
	Count	Incurred	Count	Incurred	Count	Incurred	Count	Incurred	Count	Incurred	Count	Incurred
ADMINISTRATOR	77	\$1,178,068.00	138	\$1,536,154.00	140	\$1,437,273.00	142	\$1,572,896.00	81	\$325,462.00	578	\$6,049,853.00
BUS AIDE	31	\$432,231.00	57	\$844,453.00	50	\$837,726.00	69	\$1,303,804.00	40	\$689,828.00	247	\$4,108,042.00
BUS DRIVER	105	\$2,992,532.00	120	\$2,939,066.00	107	\$3,220,680.00	124	\$3,678,100.00	58	\$520,435.00	514	\$13,350,813.00
CAFE WORK	49	\$460,933.00	115	\$1,126,801.00	91	\$1,081,266.00	101	\$1,089,380.00	42	\$375,017.00	398	\$4,133,397.00
CUSTODIAN	382	\$5,382,862.00	461	\$6,441,842.00	435	\$7,974,609.00	386	\$7,927,424.00	262	\$3,257,298.00	1926	\$30,984,035.00
ED. ATHLET	22	\$190,425.00	69	\$625,899.00	92	\$1,436,297.00	28	\$780,794.00	16	\$148,011.00	227	\$3,181,426.00
EDUC. AIDE	385	\$3,826,160.00	1184	\$12,390,645.00	1248	\$10,390,169.00	1336	\$11,307,645.00	715	\$3,074,641.00	4868	\$40,889,260.00
EDUCATOR	506	\$5,560,947.00	1729	\$13,648,978.00	1665	\$13,350,643.00	1885	\$16,334,063.00	939	\$4,201,908.00	6724	\$53,096,539.00
FOUNDATIONS	41	\$608,853.00	44	\$1,409,081.00	33	\$116,815.00	63	\$828,732.00	36	\$382,581.00	217	\$3,346,062.00
MAINTENANCE	113	\$2,421,033.00	126	\$1,972,970.00	105	\$2,196,401.00	110	\$1,525,736.00	67	\$914,076.00	521	\$9,030,216.00
NURSE	29	\$599,518.00	59	\$597,530.00	43	\$1,181,256.00	41	\$285,384.00	19	\$30,313.00	191	\$2,694,001.00
OFF. WORK	120	\$1,594,667.00	241	\$2,598,650.00	215	\$2,794,685.00	81	\$942,140.00	52	\$430,538.00	709	\$8,360,680.00

Proposed Trainings / Recommendations

Vector Solutions:

- Special Education Aides: Safety & Injury Prevention
- Slips, Trips & Falls: Complete
- Workplace Injury Prevention

Extreme Heat Events:

- **Educate** employees on signs of heat exhaustion and heat stroke.
- **Post** hydration guides to encourage regular water intake.
- **Implement** work-rest cycles to prevent overheating.
- **Create** an emergency plan in place for extreme heat events.
- **Monitor** at-risk groups such as children and those with health conditions.
- **Prepare** for power outages due to extreme heat by assessing risks.

Upcoming Events

NJASBO 63rd Annual Conference

June 4-6, 2025 | Ocean Casino & Resort, Atlantic City

NJSIG presentation:

Title: Understanding Errors & Omissions (E&O) Coverage: Insights and Lessons for School Business Officials

Session Date and Time: Thursday, June 5th 9am & 10:30am

Description: This presentation will cover Errors & Omissions (E&O) policies and their impact on school business officials' professional liability insurance. We will examine how E&O coverage protects business officials and employees from claims for wrongful acts. Additionally, we will review several claim scenarios from the New Jersey Schools Insurance Group, highlighting both successful legal outcomes and areas for improvement. Finally, a Business Administrator will discuss how they have taken the lessons learned from these and related claim scenarios and incorporated them within their district.



PRESENTATION

School Athletics: A Comprehensive Plan for Addressing Legal Liability and Promoting Student Safety

David Nash, Esq.

LEGAL ONE/Director of Legal Education and National Outreach, Foundation for Educational Administration

Jeffrey Gale

Director, Office of School Preparedness and Emergency Planning, NJDOE

Sandra Mamary

Assistant Director, New Jersey State Interscholastic Athletic Association

Rebecca Gold

LEGAL ONE Consultant



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

School Athletics: A Comprehensive Plan for Addressing Legal Liability and Promoting Student Safety

April 3, 2025

Great Partnership

- LEGAL ONE partnership with Arthur J. Gallagher, Alliant, New Jersey Schools Insurance Group
- The LEGAL ONE Podcast
 - For More Information - <https://www.thelegalonepodcast.com/>
- School Law Central

Podcast Episodes on Addressing Legal Issues Related to School Athletics

- Schools and Athletics (Alliant)
 - August 19 - Addressing Student Athlete Mental Health
 - August 26 - New Rules for Student Athlete Clearance
 - September 2 – The New Title IX

Podcast Episodes on Addressing Human Resource Needs

- September 30 – Don't Cross that Line! Creating a Clear Staff Code of Conduct
- October 7 – Effectively Addressing Sexual Harassment Claims in Schools
- October 14 – How Schools Can Be Family-Friendly to Staff and Still Operate Efficiently
- October 21 – Staff Evaluation and Accountability... Beyond Staff Observations
- October 28 – Ensuring Legally Sound HR Protocols

Presenters for April 3 and 4

- Anthony Dragona, Ed.D, Union City Business Administrator and former Athletic Director (April 3 Only)
- Thomas Eldridge, Business Administrator, Lawrence Township Public Schools (April 4 Only)
- Jeffrey Gale, Director, Office of School Preparedness and Emergency Planning, NJDOE
- Rebecca Gold, LEGAL ONE Consultant
- Sandra Mamary, Assistant Director, New Jersey State Interscholastic Athletic Association
- David Nash, Esq., Director of Legal Education and National Outreach/LEGAL ONE
- Michael Stoia, CAA, Director of Athletics and Activities, Red Bank Regional High School District (April 4 Only)
- Lori Todd, M.A., LPC, ACS, Student Assistance Counselor, Red Bank Regional High School District (April 4 Only)
- Geta Vogel, LEGAL ONE Coordinator of Mental Health, Wellness and the Law (April 3 Only)
- Wayne Yankus, MD – School Physician

DISCLAIMER

This presentation is intended as a summary of law only and is not meant as legal advice.
Please consult your attorney to obtain legal advice.



Participants are authorized to use the LEGAL ONE materials provided in this training to offer turnkey training within the respective participant's school district or place of employment, provided that participants provide proper credit to LEGAL ONE for having developed said materials and further provided that such turnkey training is offered at no charge.

Presentation Materials

Today's document(s) can be accessed at

<https://tinyurl.com/LO-AJG-AthGenLiability>



This folder can be accessed for **30 days** from the session date.

Please download all files before the link expires.

Key Topics

- Impact of Shifting Federal Priorities
- Behavior Issues Involved Students, Parents, Spectators, and Staff
- Recruiting, Screening, and Training Athletics Staff and Volunteers
- Student Athlete Physical and Mental Health
- Athletics and School Finance
- Threat Assessment and Athletics
- Key Takeaways

Why this Matters?

- Athletics is crucial protective factor for promoting student engagement, safety, sense of belonging
- Failure to follow legal requirements and best practices can result in:
 - Devastating harm for students
 - Serious discipline and other repercussions for staff members
 - Significant liability for school districts

IMPACT OF SHIFTING FEDERAL PRIORITIES

Shifting Federal Priorities

- See Article, [Shifting Federal Priorities and the Impact on New Jersey School Law and Finance](#)
- Executive Order v. Regulation v. Statute v. Constitution
 - EO must be consistent with regs, statutes, constitutional rights
- State Law v. Federal Law
 - Education is primarily a state responsibility, but potential impact on federal funding
- Withholding of Funding
 - Cannot impound funds that have been approved
- Case Law
 - Title IX decision
 - Pending litigation challenging EOs

Dear Colleague Letter and Response

- February 14 – USDE issues [Dear Colleague letter](#) directing K-12 and Higher Ed cease all DEI initiatives
- February 28 – USDE provides [FAQs](#) to clarify and justify Feb 14 letter, purported legal authority
- March 6 – NJ [joins with coalition of states](#) to provide response to USDE guidance

Scope of Title IX

- Covers all public schools and institutions of higher education
- Addresses discrimination linked to gender
- Protections both students AND staff members
- Protects against retaliation for reporting issues
 - e.g. Jackson v. Birmingham Public Schools, 544 U.S. 167 (2005)
 - Coach could not be fired for complaining about inequitable treatment of girls basketball team
- Overlaps with other laws, provides additional due process for parents
- Reverted back to 2020 Regulations which does not extend Title IX protections to transgender athletes. HOWEVER ...

Gender Identity & Athletics

- NJSIAA
 - Transgender student shall be able to participate in accordance with birth sex or gender identity
 - Same as NJDOE Transgender Student Guidance for School Districts
 - Only legitimate challenges are safety and/or fairness in competition
 - Situations determined on case-by-case basis
 - Policy – See pp 44-45:
<https://www.njsiaa.org/sites/default/files/documents/2024-08/njsiaa-policies-and-procedures-24-25-.pdf>
 - FAQ:
<https://www.njsiaa.org/sites/default/files/documents/2020-10/transgender-faqs-approved-11-15-17.pdf>

Addressing Gender Identity

- See **February 10, 2025 – Superior Court of NJ Decision**
 - *Platkin v. Middletown Township BOE (restraining district policies inconsistent with NJDOE guidance regarding parental notice)*
 - <file:///F:/Title%20IX/Title%20IX%20-%20Feb%2010,%202024/NJ%20Transgender%20Policy%20Decision%20-%20February%202025%20-%20a0037-23a0046-23a0118-23.pdf>
- P.L. 2017, c. 137 - Required NJDOE to develop guidance
- NJDOE [Guidance and Resources Regarding Transgender Students](#)
- Definitions – e.g., gender identity, gender expression, sexual orientation, cisgender, transgender
- 2018 Guidance makes clear schools honor what student tells them regarding gender identity
- Parental consent not required
- Need to ensure student is not “outed” to others, include parents
- Need to revise student records UNLESS doing so would out the student
- Need to allow access to locker rooms, restrooms based on gender identity

Continue to ...

- Honor what students tell you regarding gender identity and follow NJDOE guidance
- Allow students to participate in athletics based on gender identity per current NJSIAA Policy and NJLAD
- Ensure equitable access to athletics for students regardless of gender, gender identity, sexual orientation, citizenship status

BEHAVIOR ISSUES INVOLVING STUDENTS, PARENTS, SPECTATORS, AND STAFF

Foreseeable Issues

- Issues often occur at less structured times (in locker room, on the bus, waiting for a ride home).
- Many incidents where coaches are accused of HIB, but there is no evidence of wrongdoing - making difficult decisions on playing time, making team, etc.
- Failure to address bad behavior by spectators can lead to liability for district and coaches.
- “Trash talk” can quickly escalate to HIB/discrimination.
- Athletics staff are in a position of power in relation to student athletes that should not be abused.
- Athletics staff may create student records, public records or material that is discoverable in civil litigation through electronic communications, even when using personal devices
- When school staff members engage in HIB consequences may be extremely serious, including suspension or revocation of certificates, and even reduction in pension.

Duty to Supervise Students

- On the Field/Court
 - Dangers of “Trash Talk”
- Less Structure Settings
 - On School Grounds
 - In the Locker Room
 - On the Bus
 - On the Sidelines
 - Waiting for Pick Up
 - Away from School Grounds

“Trash Talk” Escalated to HIB

H.P. o/b/o R.S. v. BOE of the Borough of Tenaflly, Commissioner
3/26/2024

- Parent appealed BOE decision that her freshman son committed an act of HIB against a fellow classmate. HIB complaint resulted from **antisemitic comments and threats of physical harm made by R.S. during an exchange on Instagram with a Jewish student in January 2023**; exchange followed text exchanges between R.S. and his classmate which included back-and-forth insults regarding the other’s perceived soccer skills. R.S. alleged that the Instagram messages were in response to sarcastic comments made about his soccer abilities.
- ABS undertook investigation after the **victim met with her guidance counselor to report R.S.’s antisemitic comments and threats made through a private message on Instagram**; Crisis Team determined that R.S. needed a mental health clearance, which occurred.

“Trash Talk” Escalated to HIB

H.P. o/b/o R.S. v. BOE of the Borough of Tenaflly, Commissioner
3/26/2024

- Instagram message was nasty, antisemitic and threatened the victim. ABS found that both the victim and R.S. made unfavorable comments to each other about who was better at soccer; however, R.S. made comments threatening to hurt the victim as well as antisemitic comments about her religion. ABS HIB report concluded that R.S.’s actions met all of the statutory requirements and constituted an act of HIB. R.S. received counseling and a very short suspension.
- ALJ concluded that R.S.’s statements were specifically targeted at the victim’s **religion, a distinguishing characteristic**. Messages threatened physical harm on the victim with comparisons to Adolph Hitler and the Holocaust. Not just “trash talk”. **R.S. escalated “trash talk” exchanges into hate speech.**
- **ALJ** concluded that BOE determination that R.S.’s conduct constituted HIB was not arbitrary, capricious or against the weight of the evidence. **Commissioner** concurred. BOE reminded to comply with 10 day hearing requirement.

Duty to Supervise School Grounds

- **See 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
- *Question*
 - *What reasonable measures could be taken to reduce potential for injury and legal liability?*

Duty to Supervise Locker Room

- Issues may include health and safety (roughhousing) code of conduct, HIB, hazing, sexual assault
- Hazing can quickly get out of control
 - [Members of High Baseball Team Suspended Over Biting Incident](#)
- In light of well publicized 2014 locker room issue involving another district and the football team, NJDOE made clear expectation to supervise students “at all times”

Hazing as a Crime - MOA with Law Enforcement

Section 8.5. Hazing.

- Hazing is a separate offense under N.J.S.A. 2C:40-3. Hazing is a disorderly persons offense when the conduct, other than competitive athletic events, may place another person in danger of bodily injury.
- When serious bodily injury results, the offense is aggravated hazing, which is a crime of the fourth degree.
- The consent of the person hazed is not a defense. N.J.S.A. 2C:40-4. Any other criminal conduct under the New Jersey Code of Criminal Justice also may be charged. N.J.S.A. 2C:40-5.

Hazing Definition under MOA

Section 4.5. Hazing.

- Hazing is a process, based on tradition that is used by groups to maintain a hierarchy (i.e., a pecking order) within the group.
- Regardless of consent, the rituals require individuals to engage in activities that are physically and psychologically stressful.
 - These activities can be humiliating, demeaning, intimidating and exhausting, all of which results in physical or emotional discomfort.
- Hazing is about group dynamics and proving one's worthiness to become a member of a specific group.
 - The newcomer, or victim, is hazed.
 - Once accepted by the group, the victim becomes a bystander and watches others get hazed.
- Eventually the bystander typically achieves senior status and power, and becomes a perpetrator.

Addressing Hazing

- Identify situations where potential exists for hazing to occur
- Ensure proper supervision of students involved in athletics, extra curriculars
- Develop alternative means to honor tradition, recognize upper classmen/team leaders
- Promote school climate that is respectful to all
- Recognize some forms of hazing may be criminal in nature, require law enforcement notice

Legislative Update

- **P.L. 2021 c. 208 (8/24/2021)** Requires BOE of school district with high school or middle school to provide a program for the enforcement of the policy against hazing and adopt appropriate penalties for violation of the policy
- Penalties for violations of the policy may include:
 - Withholding of diplomas or transcripts pending compliance with the rules;
 - Rescission of permission for the organization or group, whose student members are being penalized under the anti-hazing policy, to operate on campus or school property or to otherwise operate under the sanction or recognition of the school district or nonpublic school; and
 - Imposition of probation, suspension, dismissal, or expulsion.
- A penalty imposed under this section shall be in addition to a penalty imposed for violation of any other school district or nonpublic school rule to which the violator may be subject.
- Policy adopted shall apply to each act conducted on or off campus if the acts are deemed to constitute hazing.

Addressing Conduct Away from School

- R.R. v. Shore Regional – student threatens another with a knife outside school, school able to take action
- Levy v. Mahanoy – SCOTUS decision, too far to remove from JV cheerleading squad and softball team for use of improper language online
- Anti-Bullying Bill of Rights – Is behavior outside school likely to cause substantial disruption in school
- N.J.A.C. 6A:16-7.6 – Code for conduct away from school grounds - Is it necessary to act to protect health and safety, maintain order in school
- G.D. M. v. Ramapo Indian Hills – school district's student athlete contract went too far, unenforceable where there is not sufficient nexus to district
 - See [LEGAL ONE Video](#) summarizing case and legal implications

Implications of Ramapo-Indian Hills decision for Board Policy

- Cannot suspend or remove a student from sports or other extra-curricular activities solely because the student was involved in use of alcohol or drugs off school grounds, or engages in criminal activity or juvenile delinquency
- **Need to show nexus between conduct off school grounds and school environment**
- Must meet standards in N.J.A.C. 6A:16-7.6
- Failure to revise policies could lead to significant liability for districts
- Requires changes in typical 24/7 policies in place in most districts for their high school athletes and in some districts for students involved in other extra-curricular activities
- **IT DOES NOT** change any requirements related to reporting on HIB, dating violence, or when a student is suspected of being under the influence

Student Discipline – First Amendment Rights

B.L., a minor, by and through her father Lawrence Levy and her mother Betty Lou Levy v. Mahanoy Area School District, Third Circuit C of A, June 30, 2020, U.S. Supreme Court, Decided 6/23/2021

- A frustrated cheerleader after having only made the JV team posted a picture to “snapchat” with a caption “F**k school f**k softball f**k cheer f**k everything.”
- The post circulated at least among her 250 “friends” on her feed.
- Student removed her from the team, claiming a violation of a school policy relative to extracurricular activities.
- Student challenged the discipline, school district upheld the discipline.
- Student brought action against school district, alleging that suspension based on her social media post, made on a Saturday, violated her First Amendment rights.
- **SUPREME COURT – Violation of First Amendment Rights**
- **NO HIB, NO THREATS, NOT ON SCHOOL GROUNDS, PRIVATE DEVICE**

The Things Parents Say ...

- My kid needs to be the lead to get into ...
- You cost my child a scholarship to ...
- My son/daughter is better than...
- All the parents think...
- My child is devastated that...
- I played a little ball...
- I coached these kids...
- My child's travel coach says...
- My child's trainer thinks...
- The coach does not like my child...
- All the kids hate the coach...

Addressing Spectator Behavior

- **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.

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.
- **Assuming allegations are true, 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.

New Jersey Anti-Bullying Case Law

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

- Third circuit has not ruled conclusively on issue of whether there is a clearly established 14th amendment right protecting a student from an administrator's deliberate indifference to racial harassment by other students.
- **Allegation that principal/superintendent knew of an incident of HIB and failed to take sufficient action to minimize or eliminate the HIB; IF TRUE, principal/superintendent may be subject to disciplinary action. *N.J.S.A. 18A:37-16***
- Principal/superintendent may have individual NJLAD liability. Was aware of racially motivated harassment, present while it was ongoing and he did nothing to put an end to it; was deliberately indifferent. Duty as superintendent to respond.

Addressing Staff Behavior – Coaches and AD

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

- **App. Div. vacated Law Division 3/16/21 order.** *Matter arising out of a lawsuit brought by DeFranco, former student and baseball team member; alleged coaches, athletic director and others violated the ABRA.*
- App. Div. invalidated Law Division protective order related to racially and religiously insensitive text messages sent by coach and athletic director on personal cell phone which required messages to remain confidential and returned to parties involved in settlement of litigation or destroyed
 - App. Div held parent of another athlete entitled to see evidence for a separate pending proceeding regarding his son
 - District entitled to use evidence for potential disciplinary proceedings against staff

New Jersey Anti-Bullying Case Law

In the Matter of the Suspension of the Certificates of James Smith 12/2/2020

- State Board of Examiners 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.
- State Board of Examiners found that the appellant failed to complete his required coach and teacher evaluations over a five year period, even after he was placed on a corrective action plan and had an increment withheld; progressive discipline was properly imposed. **Appellant also failed to report a parent's harassment, intimidation and bullying (HIB) complaint as required by the District's HIB policy.** Board concluded that this conduct amounted to inefficiency and unbecoming conduct.

New Jersey Anti-Bullying Case Law

In the Matter of the Suspension of the Certificates of James Smith 12/2/2020

- Commissioner may not substitute her judgment for that of the State Board of Examiners so long as the appellant received due process and the Board's decision is supported by sufficient credible evidence in the record. Board's decision should not be disturbed unless it is demonstrated to be arbitrary, capricious or unreasonable.
- No tenure dismissal proceedings as employee resigned before prepared tenure charges could be filed. Board of Education went directly to State Board of Examiners.

HIB and TPAF Pension Rights

Cooke v. Bd. of Trustees TPAF *Aff'd App. Div. 4/14/2020*

- Elementary teacher appealed 2/14/19 decision of Board of Trustees of the Teachers' Pension and Annuity Fund (TPAF), imposing a ten percent forfeiture of teacher's pension benefits pursuant to [N.J.S.A. 43:1-3](#) and [N.J.A.C. 17:1-6.1](#). App. Div. affirmed.
- Appellant elementary teacher was employed by the Egg Harbor Twp. BOE. November 2007, appellant called another teacher “Aunt Jemima” in the presence of other teachers. June 2008, Appellant called same teacher a “n....r” in the presence of students and other teachers. Both statements were made during school hours and on school property. School Board contended that Cooke's racial epithets were made in anger and not in jest.

HIB and TPAF Pension Rights

Cooke v. Bd. of Trustees TPAF *Aff'd App. Div. 4/14/2020*

- Tenure charges brought. Acting Commissioner of Education adopted the ALJ's factual findings but modified the penalty to 120 days of salary withholding, plus an additional thirty-day suspension without pay, and mandatory training on racial sensitivity at teacher's own expense. 11/22/10
- Both parties appealed, teacher also filed NJLAD retaliation complaint in Law Division. Parties settled.
- Teacher applied for accidental disability retirement, was granted ordinary disability retirement. Effective 1/1/13
- 10/7/14 TPAF performed an honorable service review and imposed a ten percent reduction in her ordinary disability retirement benefits effective 1/1/13 (allocating five percent to each of the two incidents).

Addressing Behavior of Referees/Officials

- AG announces settlement and new guidance document - <https://www.nj.gov/oag/newsreleases19/pr20190918a.html>
- Referee suspended for 2 years
- NJSIAA rules must be limited to hair length, and cannot be applied in way that discriminates based on hair style
- New AG [guidance](#) clarifies that discrimination on the basis of race includes discrimination based on a trait “inextricably intertwined with or closely associated with race,” including hairstyle.
- Led to passage of the CROWN Act.

What If ...

- Similar incident started to occur at an event, where the referee or other game official is asking student to do something that is embarrassing, demeaning, or discriminatory?
- What role does the coach play in addressing the behavior of other adults who may be harming student athletes?

RECRUITING, SCREENING AND TRAINING ATHLETICS STAFF AND VOLUNTEERS

Foreseeable Issues

- Coach fails to disclose prior employment where there was contact with children (e.g., working in a convenience store as a teenager).
- Volunteers with regular contact with children have not received criminal background check and/or training on reporting requirements and other obligations.
- Employees of a vendors, who have regular contact with children, are not properly vetted and trained.
- Coach is not trained on acceptable parameters of coaching, then repeats coaching techniques he or she experienced as an athlete, even though those approaches are no longer acceptable.
- Coach is otherwise not a district employee and was not trained on, and therefore does not know, district-specific protocols for reporting and/or responding to various types of incidents.

References/Background Checks

- Criminal Background Checks
- **Social Media Postings**
- References
 - Immediate Supervisor
- Most Recent Evaluation
- Pass the Trash Law
 - ALL prior positions with contact with children over past 20 years (e.g. summer job at convenience store)
 - Any pending investigations or findings of child abuse or sexual misconduct with children
 - Broad view of pending investigations (e.g. investigating comments on social media that were not directed at students, but could be seen by students)
 - ***Don't Wait Until Last Minute to Do This!!!***

Scenario

- Your district is unable to hire a full time Athletic Trainer and decides to contract with a private vendor to provide an athletic trainer as needed for school events. The vendor assures the district's Athletic Director that the trainer has been properly vetted and has no prior criminal history, and says there is no need for the trainer to go through the NJDOE criminal background check process, because the vendor has their own internal process.
- What should you do?

Criminal Background Checks

- See N.J.S.A. 18A:6-7.1
- Statutes covers BOTH district employees and vendors, as well as volunteers with regular pupil contact
- “A board of education ... shall not employ for pay **or contract for the paid services** of ... any other person serving in a position which involves regular contact with children” without first ensuring that the required criminal background check has been completed.

Criminal Background Checks

FAQs from Office of Student Protection, NJDOE -
<https://www.nj.gov/education/crimhist/>

Which applicants or employees are required to undergo the Criminal History Record Check?

If the job position is mentioned in the statute (N.J.S.A.18A:6-7.2) i.e. teaching staff member, substitute teacher, teacher aide, child study team member, school physician, school nurse, custodian, school maintenance worker, cafeteria worker, school law enforcement officer, school secretary or clerical worker, regardless of pupil contact, the individual must submit to the Criminal History Record Check. In addition, any individual that has “regular pupil contact” must also undergo the Criminal History Record Check. “Regular pupil contact” is determined by the employing education facility in consultation with the school attorney.

What other employees have regular pupil contact?

Which “volunteers” does this apply to???

Disclosure – Pass the Trash

A.B. v. BOE of the City of Hackensack, Commissioner 10/21/2021, aff'd App. Div. 10/5/2023

- **Teacher challenged BOE release of information concerning her former employment** as a teacher in the Hackensack school district; sought employment with the Clifton BOE. (2019) BOE contended that it was obligated to release the information.
- **Pursuant to “Pass the Trash”, N.J.S.A. 18A:6-7.6 through 7.13**, Clifton submitted a questionnaire to Hackensack inquiring about whether petitioner had been the subject of a child abuse or sexual misconduct investigation. **The Board answered “Yes” and that petitioner had resigned while the allegations were pending or under investigation.** As a result, Clifton withdrew its offer to hire the teacher.
- While employed in Hackensack (2013) teacher shared two sexually explicit posts on social media to which several students had access. “Kiss me, I’m Irish, F*** me, I’m Irish,” “Women say, men only think with their penis – Ladies, don’t be afraid to blow their minds.”
- Hackensack board became aware of posts, considered taking disciplinary action. Teacher, her union representatives, and her legal counsel met with the Board and its legal representation, resulting in a settlement agreement (4/25/13) including teacher’s resignation. **Agreement contained a confidentiality provision with the disclaimer “to the extent provided by law.”**

Disclosure – Pass the Trash

A.B. v. BOE of the City of Hackensack, Commissioner 10/21/2021, aff'd App. Div. 10/5/2023

- Commissioner finds that it is **reasonable that the Board conducted an investigation into sexual misconduct** based on petitioner's actions. Petitioner's social media posts could meet the definition of electronic communications that are directed toward or with a student that are designed to establish a sexual relationship with the student, such as making sexually suggestive comments. **It is sufficient that her actions could meet the definition and that the Board opened an investigation.**
- Commissioner agrees with the ALJ that **N.J.S.A. 18:6-7.12 did not exempt settlement agreements entered into before June 1, 2018 from the mandatory disclosure** provisions of the "Pass the Trash" statute. Petitioner also consented to the disclosure of information by signing an authorization form and that her settlement agreement provided a waiver of its confidentiality provision when required by law.
- **Appellate Division affirmed.**

Professional Learning for Athletics Staff

- Responding to Emergent Health Needs
 - e.g., Janet's Law, Paul's Law, Opioid Antidotes, Concussion Protocols, etc.
- Student Records/Confidentiality
- Reporting Obligations
 - HIB, Hazing, Crimes, Abuse, Neglect, Dating Violence, etc.
- District-Specific Protocols
 - Who to get to with various reports
- Don't Forget Coaches who aren't your full-time employees!
- Don't Forget Volunteers with regular student contact

Staff Reporting Obligations

- Child Abuse
 - Imminent Danger to Self/Others
 - HIB
 - Bias-Related Act
 - Dating Violence
 - Under the Influence
 - Suspected Steroid Use
 - Possession/Distribution Drugs
 - Weapons
-
- **BEWARE OF THE “DRIVE BY” REPORT, TAKE TIME TO PROPERLY REPORT AND DOCUMENT CONCERN**
 - **RECOGNIZE THAT SOME ISSUES CANNOT BE HANDLED INTERNALLY, WITHIN THE TEAM**

STUDENT ATHLETE PHYSICAL AND MENTAL HEALTH

Foreseeable Issues

- Self-Harm, suicide attempt or completed suicide take place involving a student athlete.
- Student injured during practice or game, coach blamed for failing to properly prepare student.
- Student concerned about loss of scholarship and/or letting teammates down, hides injury.
- Student trusts coach more than any other staff member, opens up about suicidal ideation, family trauma, other sensitive issues. Coach is unsure how to handle the situation.
- Student is injured, feels detached from team, struggles with mental health.
- Athletic staff are unaware where and how to access critical medical equipment during an emergency, including AED, epi pen, and/or opioid antidote.
- Student has received medical clearance, so coaches or other athletic staff believe they are unable to address new information they have received that raises questions about student's physical and/or mental health.

Sports Pre-Participation Physical

- See May 22, 2024 NJDOE [Broadcast memo](#)
- There has been a change in the requirements for submission of the updated PPE. The History Form and the Physical Examination Form within the packet do not need to be submitted to the student's school. The History Form and the Physical Examination Form should be kept by the healthcare provider who completes the PPE. Only the completed Medical Eligibility Form should be submitted to the school.
- The Medical Eligibility Form provides space for the healthcare provider to share relevant health information with the school if necessary and includes a recommendation regarding the student's ability to participate in athletics.
- It is important to note that the PPE must be conducted by a licensed physician, advanced practice nurse, or physician assistant who has completed the student athlete cardiac assessment professional development module developed by the NJDOE.
- See also NJSIAA [Sports Medical Clearance Information](#) page

Permissible Disclosure to Protect Health and Safety

- FERPA permits disclosure of personally identifiable information in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.
- What constitutes an “emergency”?
 - Based on the “totality of the circumstances” is there “an articulable and significant threat to the health or safety of a student or other individuals”?
- School officials are given the benefit of the doubt!
 - “If, based on the information available at the time of the determination, there is a rational basis for the determination, the Department will not substitute its judgment for that of the educational agency or institution in evaluating the circumstances and making its determination.” See 34 CFR 99.36.

Suspicion of Under Influence

Medical Exam

- See N.J.S.A. 18A:40A-12
- Nurse cannot be asked to make final determination and cannot overrule others – ALL STAFF have duty to report suspicion
- Must be MD or DO for medical exam for suspected under the influence. NOT PA or APN.
- Must arrange for immediate medical exam – window should be small (e.g. 2 hours)
- Drug testing requirement must be spelled out in district policy (not automatic under state law)
- NOTE from doctor must be provided to district within 24 hours (If exam took place and note is delayed then must allow to return to school)

Suspected of Being Under the Influence

- Step 1 – Initial Report to nurse, school physician, or SAC AND to the principal
- Step 2 – Arrange for **immediate** medical exam
- Step 3 – Nurse assesses student medical needs
- Step 4 – School officials may search student, belongings (cannot delay medical exam)
- Step 5 – Review report from med exam, allow reentry when cleared (report w/in 24 hours)
- Step 6 – Provide necessary supports/referrals
- Step 7 – Impose consequences per code of student conduct, and supports – explore moving away from out of school suspension

NJDOE Concussion Protocol Guidance

- NJDOE [Broadcast Email – September 24, 2023](#)
- Outlines requirements in law
- Minimum Board policy requirements
- 6 step concussion protocol
- See NJDOE [Model Policy and Guidance for Districts on the Prevention and Treatment of Sports-Related Head Injuries and Concussions](#) (Aug. 2023)

Concussion 6-Step Protocol

- **Step 1: Back to regular activities** (such as school) - Athlete is back to their regular activities (such as school).
- **Step 2: Light aerobic activity** - Begin with light aerobic exercise only to increase an athlete's heart rate. This means about 5 to 10 minutes on an exercise bike, walking, or light jogging. No weightlifting at this point.
- **Step 3: Moderate activity** - Continue with activities to increase an athlete's heart rate with body or head movement. This includes moderate jogging, brief running, moderate-intensity stationary biking, moderate intensity weightlifting (less time and/or less weight from their typical routine).
- **Step 4: Heavy, non-contact activity** - Add heavy non-contact physical activity, such as sprinting/running, high-intensity stationary biking, regular weightlifting routine, non-contact sport-specific drills (in 3 planes of movement).
- **Step 5: Practice & full contact** - Young athletes may return to practice and full contact (if appropriate for the sport) in controlled practice.
- **Step 6: Competition** - Young athletes may return to competition.

Opioid Antidotes in Schools

- P.L. 2018, Chapter 106 – Requires Opioid Antidotes in Schools and Permits Emergency Administration by School Nurse or Trained Employee
 - **Effective date – December 1, 2018**
 - [NJDOE Guidelines](#) Issued in May 2019
 - Board policy required for emergency administration of Opioid Antidote to students, staff or others
 - Requires all Schools with any of **grades 9 – 12** to obtain a standing order for these antidotes and to maintain a supply in a secure, unlocked, easily accessible location
 - Board determines quantities and types of antidotes in consultation with DOE and DOH

Procedures for Emergency Overdose

- 1) 9-1-1 called immediately
- 2) CSN called immediately (or designee if no CSN)
- 3) CSN or designee determine need for responses such as CPR, Rescue Breaths, AED)
- 4) Administer antidote to person (student, staff, parent, etc.) if good faith belief of overdose
- 5) Monitor person while waiting for emergency responders
- 6) Transport to hospital
- 7) Notify parent/guardian if student or emergency contact if staff
- 8) Superintendent notified

Janet's Law

- Who

- Janet Zilinski, 11 years old, cardiac arrest

- What

- An AED must be placed within “reasonable” proximity of the athletic field or event

- Every school must have an action plan in place
- 5 staff prepared to respond
- See NJDOE [FAQs on Janet's Law](#)

Paul's Law

- **P.L. 2019, c. 290 (1/9/2020)** - “Paul’s Law”; authorizes parent or guardian to request use of individualized health care plan for student with **epilepsy** or seizure disorder, **which includes specific actions for non-medical school staff**. Takes effect *immediately*.
- School nurse develops plan based on **parent submitted seizure action plan**.
- “Seizure action plan” means a comprehensive document provided by the student’s physician, advanced practice nurse, or physician’s assistant which includes, but is not limited to, information regarding presentation of seizures, seizure triggers, daily seizure medications, seizure first aid, and additional treatments.
- Annual authorization and update with training for all staff.

Paul's Law NJDOE Guidance

- NJDOE Guidance [Issued March 3, 2021](#)
- Includes information on available training for school staff
- Includes required elements that must be included in seizure action plans and emergency healthcare plans
- Need to consider how to adapt to address emergencies that occur during remote instruction

NJDOE Protocols/Guidance

- [Guidelines for the Care of Students with Diabetes in the School Setting](#)
- [Guidelines for the Management of Life-Threatening Food Allergies in Schools](#)
- [Guidelines for the Emergency Administration of an Opioid Antidote within Schools](#)
- [Model Policy and Guidance for Districts on the Prevention and Treatment of Sports-Related Head Injuries and Concussions](#) (Aug. 2023)
- [Model Policy and Guidance for Districts on Self-Administration of Medication and Delegation of Hydrocortisone Sodium Succinate for Students with Adrenal Insufficiency](#) (Oct. 2024)
- NJ Department of Human Services - [Opioid Overdose Response & Prevention Information](#)
- [Training Protocols for the Emergency Administration of Epinephrine](#)
- [NJDOE Mental Health Resource Guide](#)

High School Student Mental Health

- Latest Data on Student Mental from CDC
 - [Data and Statistics on Children's Mental Health | Children's Mental Health | CDC](#)
 - 40% reported persistent feelings of sadness or hopelessness in the past year.
 - 20% reported seriously considering attempting suicide in the past year.
 - 16% reported making a suicide plan in the past year.
 - 9% reporting attempting suicide in the past year.

Mental Health Protected Characteristic

- Need to consider reasonable accommodations, engage in interactive process
 - *Accommodations cannot alter fundamental nature of sport (e.g. Using a visual symbol such as a flag for start of a track meet OK, but shortening base paths not OK)*
- Protected from Discrimination based on mental health status
 - NJLAD
 - IDEA / Section 504/ ADA

NJDOE Mental Health Resource Guide

- [NJDOE Memo February 9, 2022:](https://www.nj.gov/education/broadcasts/2022/feb/09/NewJerseyComprehensiveSchool-BasedMentalHealthResourceGuideRelease.pdf)
<https://www.nj.gov/education/broadcasts/2022/feb/09/NewJerseyComprehensiveSchool-BasedMentalHealthResourceGuideRelease.pdf>
- 200+ page guide, uses MTSS approach as framework
- Includes chapters addressing suicide prevention, risk assessment and response, substance use, reentry planning
- Wrote chapter, in collaboration with NJPN, addressing substance use and mental health
- Guide establishes expectations for best practice, **which raises potential legal liability if districts fail to consider those best practices**

Stress Amongst HS Athletes

- See [Prevalence of stress amongst high school athletes](#) published by NIH, [Health Psychol Res.](#) 2023; 11: 70167, Published online 2023 Feb 21. doi: [10.52965/001c.70167](#)
- Nearly all (91%) high school athletes experience some level of stress related to athletics
- About a third of the cohort (34%) reported stress positively affecting performance, while around a quarter (25.5%) reported stress negatively affecting performance

Perceived Reasons for Stress

- Fear of failure (64%)
- Self-pressure (66.5%);
- Judgment from others (45%),
- impractical expectations of themselves (35%),
- Coach pressure (34%),
- Parental pressure (21.5%)
- Females were significantly more likely to experience stress due to:
 - fear of failure,
 - parental pressure,
 - impractical expectations of themselves, and
 - fear of being judged by others

Strategies for Coping

- Exercise (43%)
- Meditation/Yoga (13%)
- Talking to someone (24%)
 - Less than 20% would speak to a teacher, coach or medical professional (Friend or family overwhelming choice)
- Nothing helps (20%)

Few are Getting Help

- About a quarter of the respondents who did not already see a medical professional and experienced some level of stress due to sports
- **Approximately 78% of respondents who were experiencing moderate to extreme stress did not receive help, and 27% of those same respondents wanted but did not receive help.**
- Reasons for not receiving help, despite wanting it, were being unsure where to go (46%), fearing judgment from others (35% of respondents), lacking access (27%), financial difficulties (27%), and being embarrassed (14%).
- NOTE - only 18% of respondents who experienced some level of stress reported they did not believe help would be beneficial to them

Involvement in Athletics Generally Helps!

- **Results:** For males and females, involvement in sports was associated with lower levels of depression, compared to non-involvement. Consistent with previous research, females were more likely to report depressive symptoms than males. Females also were more likely to participate in arts and leadership activities.
- **Conclusion:** For males and females, sports participation, and for females, involvement in leadership activities, may represent protective factors against depressive symptoms during adolescence. However, clinicians might consider inquiring about depressive symptoms among adolescent males involved in art-related activities.
- See Waler, A., & Taliaferro, L. (2020). 102 Extracurricular Activity Involvement and Depression Among High School Students. *CNS Spectrums*, 25(2), 266-267. doi:10.1017/S1092852920000206

New Jersey Statewide Student Support Services Network (NJ 4S)

- “Hub and Spoke” System
- State organized into 15 regions
- Intended to streamline and expand access to needed mental health services
- School-based youth service programs remain in place, for now
- Important to have a strong voice as this moves from concept to reality
- **See New Jersey Statewide Student Support Services Network website**
 - <https://preventionlinks.org/nj4s/>

FERPA and Information Sharing

- Key Test - Legitimate Educational Interest
- Not “all or nothing”
- Coach/Club/Activity Advisor may need some information regarding a student’s disability
- Coach/Club or Activity Advisor may need some information regarding student who experienced HIB, Handle with Care report, ACEs
- Coach/Club or Activity Advisor may receive information from student that needs to be shared with others
 - be careful not to over-promise confidentiality

Noticing Change

- Change compared to baseline behavior
- Demeanor of each student athlete is unique
- Changes could take many forms
- Communicating with Athlete, Administration, Case Manager, Counselor, Teachers, Parent
- Don't shy away from "go to" role
- But don't try and go beyond your expertise either
- Chicken or Egg?
 - Physical health issues may impact mental health and vice versa

One District's Innovative Approach!

- Meet Red Bank Regional and The Game Changing Bucs!
 - a student-athlete group at Red Bank Regional High School, is paving the way for a new era of student-athletes who are mentally strong, resilient, and ready to take on any challenge that comes their way.
 - Student-led cohort meets monthly with the SAC, Lori Todd, Athletic Director, Mike Stoia and Athletic Trainer, Christina Emrich, to discuss various important topics including mental health, overcoming injury setbacks, and building strong team dynamics.
 - Approximately 25 students are part of the Game Changing Bucs, representing each of the Varsity sports teams.

One District's Innovative Approach

- Additionally, through the generosity of The Gregory H. Jr. Montgomery Foundation and Ridge Road Alliance, Red Bank Regional trained the coaching staff on addressing the mental health needs of student-athletes as well as sponsored a Mental Fitness Symposium with 200 student-athletes in attendance. With the help of dedicated educators and coaches like Brendan McGoldrick and Nick Tucker, the symposium was a resounding success!
- Recently Red Bank Regional was honored to have one of their own students named the NY Jets Mental Health Player of the Month by player Solomon Thomas!
- Link to Google Slides – About [Game Changing Bucs](#)

ATHLETICS AND SCHOOL FINANCE

Foreseeable Issues

- Inconsistent means for collecting, handling gate receipts.
- Improper, or lack of, controls over equipment supplies, maintenance, cleaning, etc.
- Ethics issues related to acceptance of gifts, meals, etc. from vendors
- Mixing of funds between school district and booster clubs, other outside entities

Circle System (Schutt) Case Study

- Background
- Modus operandi
 - Double billing – submits invoices & statements, schools often paid both
 - Provided fake price quotes from competitors
 - Made gifts and donations to schools, individuals, then recouped by inflating invoices
- Scope of scam – submitted fake quotes to at least 100 different schools, including more than 60 public schools in New Jersey and schools in 11 other states
- Conspired to defraud public schools
- Convictions under federal law – conspiracy to commit wire fraud, conspiracy to defraud public schools
- Penalties – Over \$1 million in restitution, prison sentences ranging up to maximum of 20 years

Group Discussion

- How did these mistakes occur?
- What lessons can be learned?
- What should be done differently to avoid similar issues in the future?

PERC Case Law

- PERC Case – Montclair Board of Education, 25 NJPER ¶30155 (1999)
- Athletic Director challenged an increment withholding
- Case involved alleged mishandling of gate receipts from wrestling meets
- Supervisors Association sought binding arbitration, BOE opposed
- PERC held action was primarily disciplinary, not evaluative – employee had right to binding arbitration

Group Discussion

- What procedures are currently followed in regards to purchasing athletic equipment and supplies? What checks and balances are in place? How can they be improved?
- What procedures are currently followed in regards to handling of receipts from athletic events and athletic fundraisers? What checks and balances are in place? How can they be improved?
- Describe when and how you interact with current and potential athletics vendors? In what ways do vendors support fundraising activities? What checks and balances are in place to address potential conflicts of interest?

Internal Controls Are Critical

- Quality Single Accountability Continuum (QSAC) New Requirement in 2018-19
- Cash Controls / Deposits
- Athletic / Student Activity Funds / Documentation
- Purchasing / State Contract/ CO-OP Bids
- Purchasing / Emails / Telephone

QSAC Indicator – eff. July 1, 2018

- A standard operating procedures (SOP) manual for business functions is maintained, updated and implemented pursuant to N.J.A.C. 6A:23A-6.6. The SOP manual includes a system of internal controls in accordance with N.J.A.C. 6A:23A-6.4 to prevent the over-expenditure of line item accounts and to safeguard assets from theft and fraud and includes a section that details purchasing procedures.

Statutes & Code related to Student Activity Funds

- N.J.S.A. 18A:17-8 – Authority to collect monies
- N.J.S.A. 18A:23-2 – Annual audit
- N.J.S.A. 18A:19-14 – Governs handling athletic funds pursuant to state regulations
- N.J.A.C. 6A:23A-16.12 – regulations outlining requirements for handling student activity funds

Conflict of Interest Rules

- 18A:12-24 – Conflict of Interest for School Officials
 - 12-24(b) Cannot use position to secure unwarranted privileges
 - 12-24 (c) No direct or indirect financial involvement
 - 12-24(e) No soliciting or accepting gifts
 - 12-24(f) No use of insider information
 - Rules apply to individual and immediate family

Ethics, Annual Disclosure

- 18A:12-24.1 – Code of Ethics for School Board members
- 18A:12-25 – Annual disclosure as to employment and financial interests
- 18A:12-26 – Annual financial disclosure forms
 - Each source of income over \$2,000
 - Each honorarium, speaking fee, writing fee over \$250
 - Each source of gift exceeding \$250

Bid Threshold & Related Requirements

- 18A:18A-3 – Establishes bid thresholds
- N.J.A.C. 6A:23A-21.1 – Establishes rules for dealing with change orders and open-end contracts

Best Practices Approach

- Handling Receipts from Events, Fundraisers
- Using Volunteers
- Disbursing Funds
- Dealing with Vendors
- Bidding
- Avoiding Conflicts of Interest, complying with disclosure requirements

THREAT ASSESSMENT AND ATHLETICS

Foreseeable Issues

- Coach may have important insights, be necessary to be part of a threat assessment.
- FERPA is often misunderstood, leads to both under-sharing and over-sharing information.
- External doors from locker rooms often propped open, created increased security threat.
- Firearms may be brought to an event by a spectator, sometimes due to gang activities.
- Community groups using facilities at the same time as a school district may have inconsistent emergency procedures, which could create chaos in a true emergency.
- Some events have less available staff than others, requiring available staff to assume additional responsibilities.
- A situation may arise where student athletes/staff/spectators are unable to reenter a building during a lockdown.
- Students with disabilities may not be properly supported during emergency situations.

Legal Requirements

- FERPA – 20 U.S.C. §1232g; 34 C.F.R. §99.31 - Parameters for Information Sharing
- School Safety and Security Plans - N.J.A.C. 6A:16-5.1
- School Fire and Security Drill Requirements - N.J.S.A. 18A:41-1
- Threat Assessment - N.J.S.A. 18A:17-43.4
- Reporting Credible Threats to Law Enforcement – N.J.A.C. 6A:16-6.3(e)

FERPA—Permissible Release of Education Records Without Consent

- Education records may be released **without consent** in the K-12 context:
 - **To school officials with legitimate educational interests.**
 - *Note:* A contractor, consultant, volunteer or other party to who the school has outsourced institutional services may be considered a school official *if* the person performs an institutional function or service for which the school would otherwise use employees; is under the direct control of the school with respect to use and re-disclosure of records; and is subject to FERPA's requirements governing use and re-disclosure of personally identifiable information
 - To schools in which a student seeks to enroll.
 - To certain government agencies for specific purposes, and other purposes specified in federal regulations.
 - 20 U.S.C. §1232g; 34 C.F.R. §99.31.

Threat Assessment Teams

- **P.L. 2022, c.83 (8/1/2022)** – BOE shall develop and adopt a policy establishing a threat assessment team at each school. Had to be in place in all districts as of 7/1/2023.
- *Purpose - to provide school teachers, administrators, and other staff with assistance in identifying students of concern, assessing those students' risk for engaging in violence or other harmful activities, and delivering intervention strategies to manage the risk of harm for students who pose a potential safety risk, to prevent targeted violence in the school, and ensure a safe and secure school environment that enhances the learning experience for all members of the school community.*
- Threat assessment team shall be multidisciplinary in membership and, to the extent possible, shall include the following individuals: a school psychologist, school counselor, school social worker, or other school employee with expertise in student counseling; a teaching staff member; a school principal or other senior school administrator; a safe schools resource officer or school employee who serves as a school liaison to law enforcement; and the school safety specialist, if that individual is not already part of the team, and additional school employees as appropriate.

Group Discussion

- When should a coach, athletic trainer or athletic director be involved in conducting a threat assessment?
- What types of information could be valuable for athletics staff to share with the threat assessment team?
- What types of information could be valuable to share with the school athletic staff after a threat assessment has taken place?

Investigative Questions

- See 11 investigative questions adapted from the U.S. Secret Services and U.S. Department of Education [Threat Assessment in Schools: A Guide to Managing Threatening Situations and Creating Safe School Climates](#).

Key Themes to Guide Threat Assessment

- Student's motives and goals
- Concerning, unusual or threatening communications
- Inappropriate interest in weapons, school shooters, mass attacks or other violence types
- Access to weapons
- Stressful events, such as setbacks, challenges or losses
- Impact of emotional & developmental issues
- Evidence of desperation, hopelessness, or suicidal thoughts & gestures
- Whether student views violence as an option to solve problems
- Whether others are concerned about student's statements / behaviors
- Capacity to carry out an attack
- Evidence of planning for an attack
- Consistency between statements & actions
 - Special Education Student Considerations
- Communication of their intent to attack?
- Potential plot dates associated with anniversaries? (Ex. April 20th – Columbine Anniversary)

Threat Assessment and Mental Health

- See article, [Threat Assessment, Mental Health and the Law](#)
- Access resources
 - [NJ4S](#)
 - [NJ Pediatric Psychiatry Collaborative](#)
- Recognize due process rights for students with IEPs or 504 plans
 - File for emergent relief with NJDOE and expedited hearing before ALJ

KEY TAKEAWAYS

Avoid Going through the Motions

- Take security drills seriously, ensure that district planning and drilling includes athletic events
- When doing training, check for understanding and ability to apply
- Audit to ensure the policy, protocol and practice are fully aligned, consistent with legal requirements

Gather and Use Your Data

- See [NJ School Climate Platform and Survey](#)
- P.L. 2021, c.156 allows school districts to conduct anonymous student surveys as long as parents provided 2 weeks notice, opportunity to review and opt out
- Don't have to wait for opt in
- Student engagement in athletics and other activities is key indicator of school climate

Information Sharing with Coach/Advisor

- Even when coach is not otherwise a full-time district employee
- When student is victim of HIB and/or aggressor
- When student has a disability
- When student experienced traumatic event
- When student intervention plan is put in place
- When student confidentiality plan is put in place
- When trends emerge regarding school climate

Students with Disabilities

- As a “school official” coach is entitled to receive information if it will help ensure that the student fully benefits from participation in athletics
 - “Legitimate Educational Interest”
- Work closely with case manager AND parents
- Consult with colleagues with greater expertise
- Don’t assume student is unable to participate
- If victim of HIB, convene IEP team, including parent

Protecting Your Kids, Your District and Yourself

- Be consistent – process/criteria/rubric for choosing leaders, starters, making the team
- Break the cycle when necessary
 - E.g. Don't perpetuate outdated coaching style that you experienced as athlete
 - E.g., Don't feed into hostile relationship with parent
- Think of yourself as combination educator/counselor/school leader
 - E.g., develop Coaching Plans similar to Lesson Plans
 - E.g., exhibit Empathy and Take Action – notice changes from baseline behavior, check-in, refer to counselors, others as needed
 - E.g., Communicate Clear Vision and Adjust as Necessary
 - Make clear upfront that HIB and Hazing are not OK

Have Rubric/ Be Consistent With the Rules

- Have clear rubric for measuring student athlete performance
- If the rule is:
 - The student with the fastest time runs/swims – enforce consistently
 - There is nothing discretionary about this rule
 - Keep a record of the times of the athletes
 - If the student misses / is late for a practice / game (or a certain number of practices / games), then they do not start / play in the next game
 - Apply this rule consistently e.g., The “Star Athlete” and the worst player
- Be consistent with any exceptions
 - Have this figured out before the season starts – Discuss with AD
 - Religious Issues
 - Death in the family, illness, family crisis of some kind, etc.
 - Tutoring Sessions, Detention
 - Will you accept excuses including but not limited to...
 - A family’s pre-planned vacation / event
 - A college tour
 - A field trip / event in another activity (such as a Marching Band Competition or a National Honor Society Banquet)
 - Any other excuses / reasons you have been given for missing practices / games in your experience

Things NOT to Say/Write

- Examples of the types of things not to say or include in a journal:
 - This kid is hopeless / clueless / a lost cause / stupid / a pain / a crybaby
 - S/he is as bad as his brother/sister was
 - The parents are crazy / driving me crazy / have the delusion that their kid is going to go pro / get a scholarship
 - My grandmother runs faster than this kid
 - I can't stand this kid / the family
 - Having to cater to the needs of this Special Ed kid is inconvenient / a pain / a waste of time / too much work

Write It Down Responsibly!

- Remember may be creating student records and/or public records and/or discoverable materials even when using personal device
- If you acted responsibly, but it's not in writing, it didn't happen (or so someone may argue)
- Have evidence of training provided and who participated
- Have documentation of meetings with students, parents, staff, officials, etc. to address issues of concern
- Document all referrals made to others to address student needs

Putting Yourself in the Best Position

- Understanding the Stakes
- Assessing and Addressing School Climate
- Legally Required Policies
- Proper Vetting
- Comprehensive/Ongoing Professional Learning
- Sound Protocols and Practices
- Trust but Verify!

Conclusion

- Thank you for choosing professional development with LEGAL ONE!
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Please take a few minutes to let us know what you thought of the session!

QUESTIONS?

Keith A. Rosado

Westwood Regional School District



CLOSING REMARKS

Steven Somick

North Bergen School District





THANK YOU!