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**WORKSHOP**  
**SPORTS LAW**  
**YEAR-IN-REVIEW**

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

**N** nebraska  
coaches  
association





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## ***SPORTS-RELATED LAWSUITS: 2013***

	<i>Scholastic</i>	<i>Collegiate</i>
☐ Constitutional/Civil Rights	112	16
☐ Sports Injury Related Suits	553	77
☐ Title IX Complaints	124	38
☐ Title IX Lawsuits	52	19
☐ Sexual Harassment Complaints	188	65
☐ Sexual Harassment Lawsuits	74	26
☐ Hazing Lawsuits	139	28
☐ Disabilities Complaints + Suits	141	19
☐ Employment Law Complaints	177	54
☐ Employment Law Lawsuits	68	22



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# LIABILITY FOR SPORTS INJURIES

*Domalewski v. Hillerich & Bradsby*  
*Jan 2013 – Final Settlement - New Jersey*

## *Terms Of The Settlement:*

\$14.5 M settlement of metal baseball bat case of youth player hit in chest by line drive; cardiac arrest and brain damage.

## *Standard Of Practice:*

Duty to provide safe equipment. One of many cases reinforcing NFHS switch on Jan 1, 2012 to BBCOR bat standard.



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# LIABILITY FOR SPORTS INJURIES

*Asiamah v. East Hartford Public Schools  
Feb 2013 – Settlement – Connecticut*

## *Terms Of Settlement:*

**\$1.5 million settlement in P.E. class  
drowning death of 15-year-old.**

## *Standard Of Practice:*

**Duty to develop swimming safety  
protocols and to provide supervision,  
technique instruction, and emergency  
medical response. Note new CT law.**





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# LIABILITY FOR SPORTS INJURIES

*A.H. & C.J. v. Mill Creek Schools  
Intent To File - April 2013 - Indiana*

*Issues Presented By Case:*

Cascade H.S. tracksters suffered burns when forced by coaches to do “bear crawls” on asphalt track on hot day.

*Standard Of Practice:*

Duty to provide proper technique instruction and to avoid excessive and unsafe corporal punishment.



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# LIABILITY FOR SPORTS INJURIES

*Roberts v. Broward County Schools  
Discovery Continued During 2013 - FL*

*Issues Presented By Case:*

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

*Standard Of Practice:*

Duties to evaluate for injuries and incapacities, supervise, provide medical response, and select and train coaches.



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# LIABILITY FOR SPORTS INJURIES

*Dixon v. Pop Warner Football  
Lawsuit Filed – Nov 2013 - California*

*Issues Presented By Case:*

13-yr-old Donovan Hill sustained catastrophic neck and spinal cord injury (quadriplegia). Coaches allegedly taught head-down, helmet-to-helmet contact

*Standard Of Practice:*

Duties to select/train coaches, proper technique instruction, supervision, and emergency medical response.





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# LIABILITY FOR SPORTS INJURIES

*Ramirez v. Hereford ISD*  
*Intent To File - April 2013 - Texas*

*Issues Presented By Case:*

Hereford H.S. distance runner died 8 days after being hit by discus while warming up for his 2-mile event.

*Standard Of Practice:*

Duty to provide a safe playing environment, including layout and setup of venue to avoid overlapping activities.





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# LIABILITY FOR SPORTS INJURIES

*J.D. v. Juneau School District  
Criminal Investigation – April 2013 - AK*

*Issues In The Investigation:*

14-yr-old Thunder Mountain H.S. football player knocked out by coach during a boxing match at football camp.

*Standard Of Practice:*

Criminal investigation is focusing on compliance with child abuse reporting laws. Civil issues: matching/equating, technique instruction, and supervision.



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# LIABILITY FOR SPORTS INJURIES

*NATA June 2013 Position Statement  
“Preventing Sudden Death In Secondary  
School Athletics Programs: Best  
Practices Recommendations”  
Journal of Athletic Training (Aug Issue)*

## *Content Of Position Statement:*

Addresses catastrophic brain and neck injuries, exertional heat stroke, sudden cardiac arrest, and exertional sickling.

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



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## CONCUSSION PROTOCOLS

*Ridolfi v. Trinidad Schools & Riddell  
Jury Trial - May 2013 - Colorado*

*Decision By The Jury:*

\$11.5 million award to Trinidad H.S. football player who suffered severe brain damage and paralysis from concussion during “Machine Gun Drill.”

*Standard Of Practice:*

Duties: proper concussion protocols and proper technique instruction.





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## CONCUSSION PROTOCOLS

*Eveland v. San Marcos USD  
Settlement Finalized - Sept 2013 – CA*

### *Terms Of The Settlement:*

Final management/disbursal terms of a \$4.4 million settlement for Mission Hills H.S. football player who suffered permanent brain damage from premature return to action .

### *Standard Of Practice:*

Duty to adhere to proper concussion protocols and follow concussion laws.



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## CONCUSSION PROTOCOLS

*National Academies Position Statement  
“Sports-Related Concussions In Youth:  
Improving The Science, Changing The  
Culture.” (October 2013)*

### *Content Of Position Statement:*

Detailed examination of concussion rates by sport, best practices for treatment and return to action, and strategies for changing culture of resistance in sports to reporting concussions.



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# CONCUSSION PROTOCOLS







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# CONCUSSION PROTOCOLS

## *3 Common Tenets Of State Concussion Laws:*

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

## *Other Common Features Of State Laws:*

- Mandatory education programs for coaches, student-athletes, parents.
- Info form signoffs by athletes-parents.
- Baseline testing for student-athletes.



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## CONSTITUTIONAL LAW: FREEDOM OF SPEECH

*Wynar v. Douglas County School Dt.  
U.S. 9th Circuit - Aug 2013 - Nevada*

### *Ruling By The Court:*

Upheld expulsion by Douglas H.S. of student for off-campus, online posts constituting a threat against classmates.

### *Standard Of Practice:*

Threats have consistently been held by courts to satisfy the “substantial disruption standard of *Tinker* case.



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## CONSTITUTIONAL LAW: FREEDOM OF SPEECH

*Rosario v. Clark County School Dt.  
U.S. District Court - July 2013 - Nevada*

### *Ruling By The Court:*

Refused to dismiss free speech claims by Desert Oasis H.S. basketball player suspended for inappropriate tweets about coaches and administrators.

### *Standard Of Practice:*

Students have free speech rights to off-campus, online posts unless substantial disruption can be established.





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# CONSTITUTIONAL LAW: FREEDOM OF EXPRESSION

*Hayden v. Greenburg CSD*  
*U.S. District Ct - March 2013 - Indiana*

## *Ruling By The Court:*

Upheld district's dress code and grooming policy for athletes and ruled that hair-length limit did not violate constitutional rights of hoopsters.

## *Standard Of Practice:*

Participation is privilege not a right and basic team rules do not violate due process and equal protection rights.



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## CONSTITUTIONAL LAW: FREEDOM OF RELIGION

*Matthews v. Kountze ISD*  
*State Trial Court - May 2013 - Texas*

### *Ruling By The Court:*

Upheld on free speech and free exercise grounds right of cheerleaders to display run-through banners bearing Bible verses at Kountze HS. Football games. Dt. is appealing the decision.

### *Standard Of Practice:*

Prevailing std is that school-sponsored religious messages violate Establish. Cl.



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## CONSTITUTIONAL LAW: FREEDOM OF RELIGION

*Sedlock v. Encinitas Union School Dt.*  
*State Trial Court - July 2013 - California*

### *Ruling By The Court:*

Held that yoga activities incorporated into P.E. curriculum were secular health initiatives, not religious instruction in violation of Establishment Clause.

### *Standard Of Practice:*

School-sponsored religious messages violate 1st Amendment (yoga ≠ religion).





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## CONSTITUTIONAL LAW: EQUAL PROTECTION

*School Success & Opportunity Act  
California State Statute - Aug 2013*

*Impact Of New Law On School Sports:*

**Codifies rights of transgender students to choose whether they wish to play boys' or girls' sports based on self-perception of gender identity and to use corresponding locker rooms/restrooms.**

**State associations with transgender policies: WA, CO, VT, ME, VA, KS.**



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## HAZING ISSUES IN ATHLETICS

*Maine West H.S. Soccer Hazing  
Civil Suit & Criminal Prosecution - IL*

### *Issues:*

Civil suit asserting inaction by school administrators and coaches to remedy hazing incidents dating back to 2007 and leading to Sept 2012 hazing-sexual assaults on soccer players.

### *Standard Of Practice:*

U.S. Supreme Court's "knowledge plus deliberate indifference" legal standard.



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## **HAZING ISSUES IN ATHLETICS**

*Bronx H.S. of Science Track Hazing  
NY State Dept. of Educ. Investigation*

### *Issues:*

Track team hazing-sexual assaults in locker room on new squad members. Criminal charges, intent-to-file civil suits, and child abuse reporting issues.

### *Standard Of Practice:*

Compliance with state hazing law, child abuse reporting, & Supreme Ct std.





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## SEXUAL HARASSMENT

*Ben Lomand H.S. Swim Coach Case  
March 2013 - Utah*

*Criminal Conviction:*

**Female swim coach convicted of forcible sexual abuse for sexual relationship with male student-athlete.**

*Standard Of Practice:*

**Knowledge + Deliberate Indifference.  
School acted promptly on actual notice,  
therefore no civil suit filed.**



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## SEXUAL HARASSMENT

*Forest Hills Central H.S. Case  
Civil Suit Filed - April 2013 - Michigan*

### *Allegations In The Case:*

School officials allegedly failed to respond to on-campus sexual assault of female soccer player by a star player on boys' basketball team leading to second sexual assault against another girl.

### *Standard Of Practice:*

**Knowledge + Deliberate Indifference.**



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## **SEXUAL HARASSMENT**

*Central Mountain H.S. (PA)  
State Attorney General Investigation  
Initiated - August 2013*

### *Issues In The Investigation:*

**Actions of school officials regarding their handling of claims of sex abuse of Aaron Fisher, Jerry Sandusky's Victim #1.**

### *Standard Of Practice:*

**Knowledge + Deliberate Indifference.**





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## **DISABILITIES LAW**

*January 25, 2013*

*OCR "Dear Colleague" Letter*

*Sports Participation Opportunities  
For Students With Disabilities:*

**Guidance regarding legal obligations of schools to provide sports participation activities for students with disabilities.**

*OCR Reading Room:*

*[www2.ed.gov/about/offices/letters](http://www2.ed.gov/about/offices/letters)*



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# **TITLE IX COMPLIANCE**

## ***TITLE IX WORKSHOP***

***Update On Title IX Compliance  
Strategies For High School  
Athletic Programs Given  
Recent Court Cases  
& OCR Mandates***

***3:30 P.M. TODAY***



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# *Thanks For Attending The Presentation!!*

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