

# ADVISOR

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# Educate Your Members to Avoid Liability

By Patrick Rosenow

When lawyers file a lawsuit, they look for as many defendants as they can find. Don't just sue the truck driver that ran into your client, sue the company that sent the driver on the trip. Don't stop with the doctor who made a mistake, include the hospital. The idea is to get access to as many deep pockets as possible. In many cases, that's not hard to do, because employers are typically liable for the negligent acts their employees commit in the course of their jobs.

Of course, most associations work hard to make sure their officials are not employees, but independent contractors. Consequently, associations are not automatically liable for the negligent acts of their officials. However, that doesn't mean the enterprising plaintiff's lawyer is totally out of luck. It just means he has to allege that the association itself was negligent in training or assigning its officials. While it's possible to imagine a complaint alleging that an association's negligent assignment of an official to a game resulted in some sort of injury or damage, of all the activities an association takes on, training clearly presents the greatest potential for legal risk.

A great example of how important training can be is the emphasis the NFHS and state associations have placed on training officials to properly handle possible concussions. Naturally, their primary concern is for the safety of the student-athletes, but once they decided to address the issue of head injuries at all in the context of the rules, they had to make sure for legal reasons that they have a sound training program in place.

Almost all local associations have no choice but to take on the job of training their officials in one way or another. It's one of the main reasons local associations exist. As a result, they have a legal obligation to conduct their training in a reasonable fashion, doing what they can to make sure their members know and properly apply and enforce the rules. Take, for instance, these five areas of training where failures could be more likely to lead to legal liability.

## 1 KNOW THE RULES REGARDING SAFE EQUIPMENT

In a freshman game, the catcher makes the third out and a sub runs out to warm up the pitcher while he gets his gear back on. If the sub is hit by a bouncing fast ball and gets hurt because he doesn't have the required protective gear on, the

association needs to show it gives training on required equipment to all of its officials, especially the newer ones likely to do sub-varsity games.

## 2 KNOW AND ENFORCE THE RULES REGARDING SAFE EQUIPMENT

It's the long anticipated match between two powerhouse soccer programs in the state final. The all-state star for one team had her arm dinged up and is wearing a cast or split that may or may not have been properly covered. No matter, because the referee elects not to check, as he doesn't want to insult the coach by implying that she would send a player out with an illegal or dangerous piece of equipment. Besides, he isn't anxious to start the biggest match of the season and delay the telecast by telling the coach

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## 'Driven by Data' in Louisville

It's a brand new world out there. Officiating is more about the science rather than the art. We're crunching the numbers and analyzing what those numbers are — to see who we are as officials, what the public thinks of sports officials and how we can recruit more officials. These sessions can be only seen at the Sports Officiating Summit.

The 35th annual Sports Officiating Summit, being held July 30-Aug. 1 in Louisville, Ky., at the Downtown Marriott Louisville, will help officials discover insights behind the numbers. The theme

for the event is Driven by Data. The Summit regularly brings together more than 450 influential officials and officiating administrators from various levels ranging from high school, collegiate and professional ranks. It's the industry event of the year and we want to see you there.

Here is a sampling of the 2017 Summit sessions:

### ALL MY BEST FRIENDS ARE OFFICIALS

Jerry Markbreit remembers. He remembers where he came from. Now with

the recent ending of his career on behalf of the NFL, Jerry reflects and allows us to go with him. Still the most recognized name in NFL officiating, he continues to speak all over the country. His entertaining style and storytelling uplift and energize. His life and his accomplishments enrich all who hear him. This will be an emotional and memorable start to the Summit program sessions.

## WE HAVE NUMBERS. WHAT DO THEY SAY?

Serious time and money have been invested. Data and analytics have been amassed covering virtually all facets of officiating. Where we stand, where we run, what we see, what we call, what we don't call, what the reviews show. We have the numbers, and now this session will explain in similar detail just what has been learned about officiating in this information-plenty age. The trends, the patterns, the probabilities — all on full display. Eye-opening to say the least.

## BREAK DOWN THAT PLAY

Your call, your explanation! One-by-one, each presenter breaks down a noteworthy personal call — in complete

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candor and openness. The context, the call, the explanation, the supremely teachable moment — learn what actually happened, why the call was made or not. Frame by frame, pixel by pixel, take an unforgettable journey into play calling. Only at the Summit can you experience such a presentation — watch the play, hear the words of the play caller, feel the emotion!

## GAME CHANGERS: BETTER OFFICIATING THROUGH INNOVATION AND FRESH THINKING

Back by popular demand! One of the Summit's most practical bank of sessions! Shorter presentations, fast-paced and each focused on a topic of unique importance. Each Game Changer has been carefully selected by NASO. You will be able to attend more than one of these sessions because of the way they are timed. Each speaker has a concept or a product that can be a "game changer" for you and your officiating program. Yes, the "game is changing."

## AFTER FURTHER REVIEW WITH MIKE PEREIRA

The Tonight Show... in the afternoon! Fox Sports celebrated football-officiating analyst Mike Pereira as a new Johnny Carson. Monologue first — then he will interview three noted personalities — each with opinions, stories and personal remembrances about officiating. It's an exciting new concept for the Summit — one guaranteed to keep you on the edge of your seat.

## OFFICIATING IN PUBLIC

This session had to be aired. Are you old enough to remember when it was said: "We don't talk about officiating," as a response to a media inquiry? How far and to where this twisted road has taken us! Officiating at all levels today has gone from privately-held to publicly-traded. Relentless rumor-mongering, use of unverified observations, viral social-media exposure all coupled with the need for breathtaking immediacy. It is the hunting ground through which officiating leaders must trek. "No comment" is no option. Explore the what, when and why of managing officiating while in the public eye.

## LAW AND LIABILITY INTERACTIVE

The "L" words that can strike fear and loathing. Consider this session "friendly fire." The best defense is a good offense — especially when it comes to the legal

rights and responsibilities held by sports officials. Throw in liabilities and insurance protections and you quickly understand the officiating industry has matured and has issues to resolve just like any other professional or organizational sector. Presented by the three most recognized experts in the industry: Alan Goldberger, respected as the foremost authority on sports officials and the law; Drew Smith, president of American Specialty Insurance, the country's premier provider of insurance to the sports officiating community; Don Collins, commissioner of the San Francisco section of the California Interscholastic Federation and practicing lawyer. The session features questions from the audience and the online community — questions and answers that will give you essential insights.

## WHO ARE WE?

We seemed to know so little — until now! Groundbreaking results from a nationwide survey of sports officials and sports officiating. Age, gender, race, location, education, aspirations. All this and more will be presented in a dynamic and visual way. See the numbers and learn what those numbers shout about the present and the future of sports officiating. Demographics, psychographics, analytics. Who we are is right in front of us.

## HELP WANTED: WHY OFFICIATING IS COOL

Officiating is a cool thing to do! Stand up and say it! Feel the fire. Push out the pride. Now we can talk afresh about how to find, nurture and hang onto sports officials. Old tired ways invariably lead to weak results. To attract more (and younger) people to join the officiating ranks takes creativity, insights and initiative. This session is designed for you if the recruiting and retention efforts you see just are not giving the kind of results needed. A generation of change. Time to refresh and reframe. Make officiating "cool" again!

## NUMBER CRUNCHING HIGH SCHOOL OFFICIATING

Paint yourself a picture. For the first time in years, here are the results of a nationwide survey of those who officiate interscholastic sports. The numbers are big and they display a portrait of this most essential element that makes high school athletics possible. Now you will be able see the distribution, the ages, the sports worked, the gluts (if any) and the shortages. These important survey results will be the

basis for years of discussion and policy making. A new picture is being painted.

### CASE STUDY: IHSA PLAYOFF — ONE DOWN TOO MANY

An untimed down at the very end of a game was incorrectly awarded and enabled a team to tie the score. In overtime that team won. The losing team appealed to the IHSA and then sued in state court. Nothing could be done. The officials took responsibility, suffered and apologized. Others felt aggrieved. Now is the time to heal and to learn from what took place. Only at the Summit would a session like this be possible. The officials and the IHSA walk us through the play, the aftermath and the important lessons for us all.

### REFEREE VOICES

Stand up for officiating and be heard. Earlier in the program we said, “Let’s

make officiating cool again.” OK, let’s! The concept is simple: presenters on stage, telling a story, giving an insight, sharing a moment — all that will make you feel good about sports officiating. Referee Voices begins with this session and it will grow and grow on this session’s base. There will be an expansive body of short, memorable videos that have captured the voices of so many needing to be heard on behalf of who we are and what we do. And the entire journey begins with this single session. Not to be missed.

In addition to the educational sessions, the Officiating Industry Luncheon, sport-by-sport breakouts, lunch workshops and the Celebrate Officiating Gala will be available for attendees. For more information or to sign up, visit [sportsofficiatingsummit.com](http://sportsofficiatingsummit.com), email [summit@naso.org](mailto:summit@naso.org) or call 1-800-733-6100.

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## Wanted: Quality Assigner

By Carl Smith

Is your association looking for an assigner? Are you looking for high quality? Of course you are! Why would you want to accept mediocre? Assigning is arguably the most important job in the governing of your association. It is certainly the most stressful and time consuming. What qualities should you look for in a prospective assigner?

Here are important characteristics necessary to successfully assign officials:

### 1 HONESTY

An assigner must be a person of known integrity, above reproach, fair and honest in all their dealings. There is nothing that will undermine the reputation of an association faster than a “good old boys club” label. There may always be the perception of “favorites.” However, often certain officials are getting select assignments because they are more available, more dependable and have a great attitude. The job of the assigner is to make sure there is transparency in their actions toward all officials, not just a few. If they are questioned as an assigner, they need to be able to back up their reasons for selecting the officials for that regular season “big game” or

postseason assignment. The assigner should be well compensated. But they have to be passionate about their craft and desire to do the best job possible because it needs to be done that way, not just because they’re being paid for it.

### 2 ORGANIZATION.

There’s nothing more irritating to officials than to have last-minute changes because of an error on the part of the assigner. There will be changes. Unnecessary changes are what need to be guarded against. If the league or school makes a last-minute change, no matter the reason, there’s not a lot the assigner can do but notify the officials. We work for them. As an assigner these past eight years, I’ve had many of those. What I’ve tried to minimize are the changes made because I forgot something or made an error in data entry. Check, recheck and recheck again! Document changes to make sure they get done in a timely manner. Instruct your officials to follow up and make sure the change was made.

A big part of being organized is being “tech savvy.” Many associations rely on web assigning systems. The assigner must be able to learn the system effectively, and make it work for the officials. They must be looking ahead so

## THE PULSE

Local Association News Nationwide

### WNCBOA Participates in Charity Event

The Western N.C. Basketball Officials Association participated in the 4th annual Coaches vs. Cancer Shootout sponsored by the N.C. Basketball Coaches Association. The event raised more than \$25,000 for charity. The officials donated their time on Nov. 26 to work all seven games, accepting no payment for their officiating. Fourteen North Carolina High School Athletic Association teams played in the event and participated in fundraising efforts. Each team also selected a “hero” for their school – a cancer victim from their school or community who inspires them through his/her own personal fight against cancer – who was recognized.

### CAFOA Awards Scholarships

The Central Alabama Football Officials Association awarded two local high school schools with scholarships in late 2016. The Pelham High School football program received the Florey Dow Sportsmanship Award for 4A-6A schools and Prattville Christian Academy won in the 1A-3A division.

### Umpires Inducted Into South Jersey Baseball Hall of Fame

Two umpires were among the seven inductees in the South Jersey Baseball Hall of Fame on Nov. 26.

John Black, of Blackwood, was recognized for his “longtime service, longtime ability and contributions as a baseball official for 43 years.” Black served more than 30 years as president of the New Jersey Baseball Umpires Association, is a cadet supervisor, past assigner, has officiated at every level through college and has umpired the Carpenter Cup and state playoff games, including finals.

Bruce Carter, of Lawnside, was selected for his service as an umpire as well as his high school career at Rancocas Valley, where he batted .357 and .383 in 1969 and 70. His three-year career at Glassboro State College saw him being named a Division III All-American and its Player of the Year. He spent a year in the Yankees’ organization playing for Single-A Oneonta. Carter has been a member of the South Jersey Umpire Association since 1992. His officiating career has seen him umpire state games, including finals.

SOURCES: CITIZEN-TIMES, SHELBY COUNTY (ALA.) REPORTER, COURIER-POST (CHERRY HILL, N.J.)

they’re aware of big days coming up, and give the officials as much notice as possible.

### 3 EFFECTIVE COMMUNICATION.

Coaches, league and school administrators, sometimes even players and parents will want a “piece” of the assigner. That’s part of the stress of the job. Often the complainant just wants to vent to the assigner. They usually view the assigner as the person responsible for all their problems. The assigner needs to listen, talk to the crew involved if they’re not already aware of the situation, and proceed from there. If there’s a serious problem, they need to work to resolve it within the framework of the association they work for, and the board they answer to. They must be approachable to all officials. They should expect to be asked about assignments. Assigners should be ready, be positive and reinforce the fact that they’re doing their best for all of the officials. Assigners can let members know what they need to work on to get to the next level, and work through the other board members and trainers to help them, if possible.

### 4 DEPENDABILITY.

During the season, assigners should plan to be available 24/7. Officials need to be able to reach the assigner, and make changes to their schedule as necessary. In this modern age, the assigner should plan to have a smart phone accessible at all times. If an online assigning system is being used, the assigner should be able to access it and make changes on the fly. They can suggest to officials to only call during certain hours, and that may work most of the time — but there will always be exceptions.

When you look at the qualities noted for an assigner, you may notice that they sound remarkably close to those of a lead official. Integrity, honesty, passionate about their craft, organized, tech savvy, effective communicator, approachable, patient, flexible, dependable? Yup, that pretty much sums up what you’re looking for in an assigner. They are also the attributes you’re looking for in a high-level official. Imagine that.

*Carl Smith, Anchorage, Alaska, is the treasurer and assigner for the Anchorage Sports Officials Association. ☒*

## The Best Umpire Teaching Tools at the Best Price

Getting your umpires to engage in their own improvement can be a struggle. So can finding the budget to provide them with quality training tools. The editors and designers at *Referee* have solved both of those problems with the new *9 Rules You Thought You Knew* series.

These brand-new resources feature the quick-hitting insights and rule breakdowns that only *Referee* can do, and partners them with exciting graphics and punchy designs. They make it fun to examine each of these often-misunderstood rules quickly during meetings and on an umpire’s own time.

As an Association Advantage member you get 45 percent off every day. That means you could purchase 60 of the *9 Rules* booklets for only \$163! You’ll get instant appreciation from your umpires and it will barely put a dent in your association’s budget. It’s a win-win. ☒



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## HOW TO...

### TEACH PROFESSIONALISM TO YOUR MEMBERS

Just because the members of your association are amateur officials, it doesn't mean they can't and shouldn't act like professionals. Doing the right things before, during and after games casts a positive light on your group and on officiating as a whole. Here are some ways you can help your members project a positive image.

#### Be organized.

Slipshod leadership begets poor habits among members. Maintain communication with your members throughout the year, not just the season. Send out meeting reminders. Create agendas for board meetings and stick to them.

#### Handle money properly.

Dues should be realistic. You can price yourself out of the market and alienate members with outrageous dues. Money taken in should be sufficient to cover expenses with a bit in reserve for emergencies or other contingencies. Have an independent financial expert audit your books. The treasurer should know that's not a signal he or she is under suspicion; it's a safeguard against honest mistakes.

#### Keep meetings professional.

Start on time. Your tolerance of what's too late for a member's arrival and how many instances of tardiness is up to you. Decorum is expected. A member who creates a disturbance and is clearly under the influence should be quietly but firmly asked to leave. Attire should be appropriate; no one should look like they just stepped off the beach. Although everyone learns from lively discussion and healthy debate about rules, mechanics and philosophies, don't let the conversation turn into a free-for-all.

#### Exhibit pride in your group.

If your association has logoed attire, such as jackets or polo shirts, encourage members to wear them in public as well as to and from games. Displaying your emblem indicates members are proud to be part of the association as well as proud of being officials.

## Three on Three: Liability Lessons

Sports officials face much more liability risk now than any time in the past. That means associations throughout the country must be armed and ready when it comes to liability protection for members and officers.

Three association leaders took time to answer questions about liability protection. They include: Jay Mayfield, Baton Rouge, La., treasurer of the Baton Rouge Area Football Officials Association; Michael Collins, secretary-treasurer for the California Baseball Umpires Association; and Darin Banner, president of the Southwest Missouri Basketball Officials Association.

### 1 WHAT KEEPS YOU UP AT NIGHT FROM A LIABILITY PERSPECTIVE?

**Mayfield:** If somebody gets injured on the field, they could end up looking at us.

**Collins:** All of our unit members and our board of directors are covered under NASO, so we're covered pretty good. I don't feel like any issues could ever come up. If they do, then we have our policy to act as our mitigator.

**Banner:** We communicate with our guys all the time to stay off social media and don't text coaches. But that warning is only as good as the people who are hearing it.

### 2 ARE YOU DOING ANYTHING SPECIAL TO LIMIT THE ASSOCIATION'S LIABILITY?

**Mayfield:** We have training and position meetings during the season to go over things. We have our banquet at the end of the year and we'll make it a cash bar instead of the association paying for it because of liability type of issues.

**Collins:** Every now and then when we can we will share through email, links or in class discussion new or strange information about things that are happening in the world of sports. A lot of times, the members will bring that to our attention and let us know about something that happened across the country or wherever. We will talk about it at a regular meeting and get members' reaction to it.

**Banner:** Some officials want to eject fans at the drop of a hat because that

official's feelings may be hurt. We tell them that it's part of the gig, but there is an exposure there when removing a fan is unwarranted. Maybe they ejected the wrong person. Probably a slim chance that something will happen, but we encourage our officials to direct the game administrators to do that stuff.

### 3 DO YOU BELIEVE YOUR MEMBERS ARE EDUCATED ON THEIR OWN LIABILITY WHEN OFFICIATING?

**Mayfield:** I think to some extent, but they don't always realize the full extent sometimes. I don't think they realize some of the situations. They recognize the obvious, but not the ones that aren't so obvious. With judgments or erroneous calls, they might not realize what that can lead to.

**Collins:** They certainly know what they should and shouldn't do according to what they have been taught by the instructional chair and the board members. We work with high schools and youth throughout the year. The real liability that we're constantly on our guys about is changing in and out of gear in the parking lot. If you're in the middle of a high school and you've got teenagers walking by while you're putting your pants on, it doesn't look good. So we talk to them about those kinds of things, as innocent as that is.

We have discussions about fracasces that may break out on the field. It's not their job to intercede. We tell them to take names and numbers, and observe. Let the coaches and administrators handle that kind of thing. We're vigilant observers, taking notes. We cover those kinds of things on a regular basis.

**Banner:** We've had a directors and officer's policy enforced for the last several years, but this is the first year that we've purchased (Association Advantage's) Platinum Shield coverage, as well as the excess medical and the game fee reimbursement insurance. We explained to our members exactly what their benefits are and what it covers. From an educational perspective, they are more educated now than they ever have been before in regard to policies that we have in force and what they are covering. ☒

# Paid Positions: Are They Right for Your Association?

By Brent Killackey

The labor of volunteers is often critical to the success of an officials association. The people who give time and effort without pay are essential in a group's formation and continued successful operation.

But as the association has grown, and more has become expected of the people involved in running the group, it might be time to consider whether volunteer labors alone can sustain the association.

While people's donated time and efforts can help accomplish great things, there may come a point where paying certain position-holders can help entice some quality people to step forward and/or stay involved in their particular role.

There are often certain positions that require more time, and possibly technical understanding, that make them more challenging to fill and harder to keep people once you've got them. The treasurer is one such position. It's usually good to have someone with knowledge of accounting procedures, especially in a large organization with a decent-sized budget.

At a certain point, the tasks and obligations of association positions can become more onerous than people want to fill on a purely volunteer basis. Sometimes, people will be willing to do them for a very small amount of money; other times, to get the right expertise and people doing the work, it will cost more. Each association will have to assess its resources and needs to determine what is the right fit.

Paid positions can be as simple as paying the treasurer a few hundred dollar annual stipend for tackling the chores of paying the bills and balancing the books. Some organizations will extend such stipends to other board positions that require a larger investment of time, such as the president and secretary. Others provide their training staff, or perhaps just the director of training, a small stipend in recognition of the time and energy to create a variety of training

presentations and to work with new officials.

In more rare cases, an organization's workload is big enough that formal paid positions — such an assigner or executive director — are needed to handle the jobs.

When setting up any paid position, it's important for the association to outline the specific duties, expectations and the pay. And that should be more than just a verbal arrangement — get it in writing to ensure it's clearly outlined for both sides.

And anytime your group is moving toward paid positions, it's important to consult with an attorney to make sure the association complies with all state and federal laws. For example, if the person is paid over \$600, the association will need to issue 1099s at tax time. But there may be other obligations, such as withholding certain taxes, paying unemployment, carrying worker's compensation insurance and other more.

When your officials association has grown large enough to consider incorporating paid positions along with the volunteers, it's only reasonable to get advice from the experts to ensure everything is done the right way for your group — and that future liabilities aren't being created.

*Brent Killackey is Referee's managing editor and a high school baseball umpire.* 

## BYLAW BIT

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## + Educate continued from p.1

her star can't play. Unfortunately, the referee's attempt to finesse the issue runs into trouble when the star collides with the opposing team's MVP and breaks her arm. The MVP misses her traveling team season and loses a probable scholarship. Mom and dad want to know what the association did to make sure its officials understand their obligation to enforce the rules at every game.

### 3 INSPECT AND MONITOR THE PLAYING COURT OR FIELD FOR SAFETY AND RULES COMPLIANCE

With time running out in the half, the marching band is crowding the sideline, waiting for its chance to take the field. They are 30 yards from the line of scrimmage, so no one thinks much about it until a defensive back and receiver fight over a long pass outside the hash marks and go sprawling into the clarinet section, leaving some severely wounded woodwinds. The band boosters, along with a number of other folks, are going to want to know if the association told its officials to keep the sidelines clear at all times.

### 4 KNOW AND STAY IN YOUR LANE

Instead of going to game management for help, an official directly confronts an obnoxious fan and orders him to be quiet or leave. The confrontation gets physical and in the process a bystander fan gets injured. His lawyer wants to know why the association didn't train its officials to let event staff or security deal with the unruly fan.

### 5 BE IN THE RIGHT PLACE, LOOKING FOR AND AT THE RIGHT THING

You might not think mechanics is a high legal risk area for training, but it can be. Consider a trail official who focuses his attention narrowly on the basketball as it is dribbled in back court nearing the division line and allows two players that were lagging behind to drift out of his field of vision. A shoving match goes unnoticed and suddenly explodes into a sucker punch, which none of the officials see. With proper mechanics, one of the officials would have seen the shoving and could have broken up the brewing storm. Because proper mechanics were

not used, a player is undergoing surgery for a fractured skull. The insurance company's lawyer is going to want to know what the association did to train that crew to make sure they had all 10 players covered.

To be fair, it's very unusual for an association to be sued for the acts of one of its officials. But if it happens, it's not likely to be over a failure to adequately train its officials in the complexity of the jump stop or batting out of order rules. It's going to be over something related to player safety in terms of equipment, the playing environment, or controlling the game. Except for game control, it's the stuff we often gloss over in meetings, because it rarely comes up in a game. That doesn't mean it's not important, and associations need to make sure their members know safety always comes first and ignoring rules about safety puts both the official and association at legal risk.

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