

Fine Print Can Be Telling

By Donald C. Collins

There's an ongoing tension between our need to conduct officiating business and our obligation to do so under contract terms that are palatable. Too often, that tension is resolved by simply ignoring the mere existence of the tension. But that which is ignored doesn't disappear.

We've seen good officials and well-run officials associations have contract problems. Those problems include a dispute over the payment for a game that was suspended partway through due to a power outage. We've also seen disputes over officials' obligations to work scrimmages when games were forfeited. Last summer, a municipal league asked officials to sign an agreement containing an indemnity clause and a hold harmless clause. In short, the league told officials they couldn't sue if they were hurt, and

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they had to pay if somebody sued the league for acts that could be linked to the officials.

Those disputes extend to banquets and meetings. In one case, an official sued a school after slipping on a wet floor during an association meeting. The school had an indemnity clause in its rental form. Ultimately, the association had to pay the school after the school paid the official.

Officials associations can address some contractual issues by having their own contract. Associations can use a questionnaire to cover things such as: When should the schedule be delivered? How much notice needs to be given to cancel a game without paying the officials? What do you do about scrimmages (work them when they're scheduled in advance; don't work them when they take the

place of a cancelled game)? How do you handle payment for postponed games? How do you handle assigner's fees for the initial slate of games? Should there be surplus assigner fees for added games? What do you do about any other matters that concern the association or the client school or league? The answers to those questions will drive the contract.

Of course, using your own contract won't work where a larger organization insists upon using its own form contract. Indeed, some entities have to use the form promulgated by their legal office. The reality of contracts is that the larger entity almost always uses its form.

Being forced to use another entity's contract is not an insurmountable obstacle. Entities that have their own contract are often using one form for every type of contract. Those universal forms almost always leave room for the unique details of a specific agreement. Officials need to find out where those specific details go.

Even when an association can get its own language into a league or school's form, it still needs to read the parts of the form that it didn't write. Officials and associations can ask for the removal of those clauses that aren't applicable to officiating. Of course, there may be times when the school or league won't remove a clause that is unpalatable. When that occurs, officials must balance their desire to work the game(s) against the risk of harm stemming from the unpalatable clause. In short, know what you sign and if you don't like it and can't change it, consult with counsel to see if you can live with it.

Some people will use unpalatable terms when they see that officials carry liability insurance and are trained. Never underestimate the power of education. But that only comes into play after fully reading a contract. *Donald C. Collins is executive director of the San Francisco section of the California Interscholastic Federation. He is a longtime basketball official and lawyer. This material is for informational purposes only and is not legal advice. □*

Go With the Pros to Get It Right

Just as coaches and players rely on you to be professional in getting an event or game completed satisfactorily, so should you rely on other professionals to help with medical, economic and other issues that arise in sports officiating.

Legal professionals can answer your general and confidential questions about a broad range of issues for you or your association. For example, if your association wants you to explore the issue of tax-exempt status, consult a lawyer who specializes in those issues. If the topic is gender issues when opposite gender officials work an event — male umpires working a girls' high school softball game, for example — then start with lawyers who work for the local school district. As for your own personal issues, it is worth the cost of asking a qualified attorney to answer any questions you may have about your own peculiar situation.

Free Speech Doesn't Mean Anything Goes

The chant of "Kill the umpire" has been in the American lexicon for decades and a fan can yell it out freely in many instances, although there are exceptions. Fans at primary and secondary school events are generally protected from offensive speech. Administrators can tell someone using profanity at a high school game to stop using such words and then have the speaker removed because others at the event need not hear such language.

Just because a fan may have the right to say words that are profane or abusive does not mean that an official can do nothing. An official can ask the proper authority to tell the person to stop the language or risk being removed from the premises.

Fans have sued on First Amendment grounds for being tossed from events. Frequently, cases settle without getting a ruling on the applicability of the First Amendment.

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