

Scrimmage Scrutiny

By Donald C. Collins

Scrimmages put officials in the strange position of entering into a contract without knowing all the terms going in. Indeed, the people running the scrimmage often haven't set the terms. Fortunately, teams and officials usually have enough of a sense of things to muddle their way through.

Unfortunately, when you enter into vague contracts, things can go south. Officials can help prevent that by addressing potential issues before working the scrimmage.

Some of the key issues that must be addressed are: whether or not the official is being paid; whether the scrimmage involves one team (i.e. an intrasquad scrimmage or practice), two teams, or multiple teams; what the scrimmage format is — will it be run like a game or can coaches step in to instruct, set up specific plays and game situations; whether there are any

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special scrimmage rules; what are the timing rules; how many officials will be working; and whether there will be any scorers, timers, medics or other game support staff.

Officials should supplement these basic questions with issues that address their specific situation and their sport.

Unfortunately, the nature of scrimmages means many of these questions have to be raised on the spot. This is not a contract problem as a verbal agreement made on the spot is still a legal contract. However, it is best to set up scrimmages in advance and get one's questions answered in writing. Where officials can't get an advance written agreement, it is advisable for them to send an email memorializing that which was discussed and agreed upon.

Officials should note there are some non-negotiables. These include safety

equipment, unsafe field/gym conditions and scrimmages the official determines need athletic trainers or other medical personnel. Officials simply should not work if there are safety issues. The liability risks outweigh the benefits of working the scrimmage in such cases.

Officials should note scrimmages are frequently not a negotiation of equals. Economic leverage is often a key factor. Many teams and leagues want an official to officiate a scrimmage when a game is forfeited. This is not a problem if the official wants to work the scrimmage, and has gone over and agreed to the terms of the scrimmage. Too often, though, the official feels compelled to work.

Officials should note leagues and teams should not use the withholding of a game fee as leverage to work the scrimmage. The contract to work a game is different than a contract to work a scrimmage, and should not be used as leverage to muscle an official into working a scrimmage.

Unfortunately, other forms of leverage exist, and are often used in recreational leagues where a small corps of officials find themselves assigned multiple back-to-back games at one site. The leverage of too few officials and a lot of games can be used to muscle an official into working a scrimmage the official may not want to work. The official may feel compelled to yield to either the express or implied threat that someone else may be assigned to future games. There really isn't a legal remedy for this type of leverage. Even so, no official should yield to this leverage by compromising on safety. That is where the line must be drawn.

Ultimately, a strong association that carves out advance protections is the best way to carve out good safety provisions if you want to work a scrimmage, and to reduce teams and leagues from leveraging officials into working a scrimmage when they don't want to.

Donald C. Collins recently retired as commissioner of the San Francisco Section of the California Interscholastic Federation. He is a longtime basketball official and lawyer. This article is for informational purposes and is not legal advice. □

When They're Late, Give 'Em a Break

When a team arrives late and seeks some time to warm up, what's an umpire or referee to do?

First, understand the rules of the competition or league. In some cases, on-time starts are a must. This might be true in a "showcase" or "tournament" situation with back-to-back games scheduled on a single field all day long. Starting late could have larger repercussions. In other situations, there may be a specified grace period.

If there are no established rules for the competition or other administrator making the decision, there's usually no harm in having the coaches discuss the issue and coming to an agreement.

If they can't agree and they're looking to the officials, it's best to err on the side of safety and allow a reasonable time for a warmup. While legal claims against sports officials are rarely successful, you can lessen the risk of a claim even being made by making a decision that, in your judgment, is based on player safety.

SOURCE: 1/19 LAW COLUMN BY BEN GLASS

Show No Mercy With Mercy Rules

Mercy rules can be tied to an official's duty to control the game. Officials are expected to have the training and skill to control a game, and they are supposed to apply the rules and exercise judgment that is reasonable for the level of play they're working. Officials can be liable where they can be shown to have made sufficient errors to move out of the reasonable range of what the sports community expects for the level at which the official is working.

Officials can be shown to have breached their duty to control the game by a single error. They can also be shown to have breached their duty to control the game through a totality of actions. This chipping away can eventually lead to the official being perceived as negligent and can make something as small as missing the clock stopping in a running-clock-mercy-rule situation lead to the official being liable for an injury.

SOURCE: 1/18 LAW COLUMN BY DONALD C. COLLINS

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