

Your Rights and Responsibilities

Could Disciplining for “Conduct Unbecoming” Lead to Liability?

The following question was asked during the “Current Legal Issues: Your Questions Answered” session at the 2008 NASO Summit. The answers are from session leaders Alan Goldberger, New Jersey lawyer and official who wrote the book *Sports Officiating: A Legal Guide*, and Don Collins, a lawyer and executive director of the San Francisco section of the California Interscholastic Federation.

Q Knowing that you can't predict every single thing that someone might do, what about statements in bylaws that say “conduct that's detrimental to the association” or “conduct that brings discredit to the association” and disciplining members based on those broad-based statements? You can't predict what every single person is going to do, so does that cover you?

A **Alan Goldberger:** It depends on the state, but I can tell you what we recommend in that regard. We tie that type of clause to “conduct which is contrary to the stated purposes of the association,” so you don't have somebody who gets a speeding ticket who is a lacrosse official penalized for that. That's the way we handle that type of general catch-all provision.



Alan Goldberger



Don Collins

Don Collins: You have to link any type of testing, punishment, general provisions such as “conduct unbecoming,” to the standards of officiating, or in your case the stated purposes of your bylaws. If you don't, you could trip into some weird lawsuits occasionally. There have been people

outside of officiating who have said you have to take this or that test to do a job, and they get those awful lawsuits about whether the test links to the job or not. You have to be careful in those instances and make sure there is a linkage in all that you do to the standards of officiating, and that goes beyond conduct unbecoming, that should go to your evaluations. You should not say, “Charles is too old,” or “Janie is too big.” It should be “Charles is not covering the court,” which is a standard of officiating. If he's not covering the court because he's too old or too big, that's his problem. The standards are what's important. □



Campaign *(continued from p.N1)*

support of the program from the outset and their example has shown the way for many other groups to become involved.

“The great coach John Wooden has a quote that I keep on my desk — ‘You can not realize a full life until you do something for someone who will never be able to repay you,’” said Delaney. “Representing the officiating community as national co-chair for the Blow the Whistle on Cancer campaign has given me the opportunity to see so many officials, at all sports levels, realizing a ‘full life’ through their donations and efforts.”

All NBA and NFL officials will once again participate in the campaign during ESPN's Jimmy V week in December. Over the years, the NFL and NBA officials have donated thousands of dollars in grants to such a worthy cause. And in 2007, major league

baseball umpires got involved to help donate as well.

In a touching tribute this season, the NBA officials will donate money to be used for cancer research grants in the name of one of their own, Ron Olesiak, who was diagnosed with cancer last year, went through treatments and is now back on the floor.

The V Foundation for Cancer Research was founded in 1993 by ESPN and the late Jim Valvano, legendary basketball coach and ESPN commentator. Since 1993, the foundation has raised more than \$80 million to fund cancer research grants nationwide.

Other organizations continue to lend their involvement. NADFO participated during National College Football Day on Nov. 1 and many D-I football officials donated portions of their game checks that day to the very

worthy cause.

Associations at the local level have held numerous events donating monies earned from officiating but more importantly, helping to bring awareness to the cancer research.

“The growth of the program has occurred because of the advocacy of our two national chairmen, Mike Pereira and Bob Delaney,” said V Foundation CEO Nick Valvano.

With help from all of those leagues and more, the campaign is once again off to a great start. “The officiating community is united and we are part of a bigger team — Jimmy V's team to fight cancer,” said Delaney. “The game plan is in place, an all-star team is in action and like in every game — officials, referees and umpires are needed and they have responded in a big way.” □