



Conflicts of Interest — *Sometimes You Have to Say*

NO



By Donald C. Collins

Officials spend thousands of hours working on mechanics, studying rules, and working their way up the ladder. We devote a similar amount of time and energy to staying at that level.

Officials master a host of techniques to make us appear fair and neutral. We don't, for example, have a friendly pregame chat with one coach while saying nothing to the other coach. Similarly, we don't lean up against the stadium railing and chat up the home team's fans during a pregame warm-up — it looks mighty bad to the poor visitors.

It is natural for officials to conclude that they are unimpeachable fonts of fairness after putting in so much work. It is rather difficult to tell officials that there are some games in which their fairness can properly be called into question. Many officials don't want to hear this. After all, part of being a successful official is tuning out the countless people who have told us that we're not fair for any of a number of reasons. A good official has rebutted the fairness argument hundreds of times.

Most officials know that there are some games they shouldn't officiate. They may not be able to articulate the reason why they shouldn't work a specific game. If asked, many of them might say — in essence — that there are lines that they just won't cross. There's a real sense of ethics in most officials.

The problem is that the line that an official won't cross varies from official to official. In short, it is not a good idea to make the official the judge of what games he or she can and cannot officiate. To do so invites a wide variance in standards, and standards have to be the same for everybody.

Every officials association, league or governing body needs to have a conflict of interest policy. The conflict of interest policy sets the line that the official should not cross.

A conflict of interest policy is protective, not punitive. The policy does not imply that an official is being denied a game because he or she can't be fair. The policy assumes that the official can be fair — even in a game involving his or her own child. What the policy does is acknowledge that the official is vulnerable in certain situations. There are

times where it's not enough to point out that your calls were right. A news article that points out that an official worked his son's game and made a controversial call that helped his son's team win the high school state championship is going to be scandalous – even if the official made all the right calls. In short, the policy protects the official from having his or her integrity impugned in a manner that the official can't defend by pointing out that he or she made the right calls.

A good conflict of interest policy identifies relationships that should bar an official from working a particular game. The officials association, league or governing body setting the policy has to address certain red-flag relationships. How those red-flag relationships are addressed will vary from place to place and from level to level.

The key red flags are family, school, business and social relationships. The officials association, league or governing body has to decide which relationships in each category should bar an official from working games. Those relationships will become the key questions on the conflict of interest questionnaire, and those relationships will be enshrined in the conflict of interest policy as the relationships that bar one from officiating a certain contest.

The standards are not absolute. They will vary from level to level and from place to place. So, it might not be appropriate in some places (probably most places) to officiate your son's high school game. On the other hand, the same place that bars you from your son's high school game might let you officiate your son's middle school game. However, that very same place might have a policy about the middle school playoffs – or maybe not. Some issues simply depend upon where you are.

Similarly, one region might have policies that are impacted by geography. I might relax a conflict standard in hard-to-get-to regions. Still, though, there might be some standards that are never relaxed by an officials association, league or governing body.

Standards may vary from sport to sport. Some officials associations, leagues or governing bodies might feel that a starter at a cross country meet can service their own school's contest, but have a completely different policy for a track starter. The factors that lead to the difference in policy could range from the number of people who actually serve as a cross country starter, and the limited number of false starts in cross country. Track, on the other hand, might have more starters and more false starts.

Conflict policies are community standards at the end of the day. The important thing is that the people who run the community have gotten together, figured it out and can now defend the official against criticism based on the standard in their community.

The standards won't be perfect. Therefore, all officials associations, leagues and governing bodies should have some avenue of appeal. It might be logical, for example, to bar all

alumni from ever working a school's game in some communities. In other communities, the bar may only last for 10 or 20 years – long enough for the official to become an adult and break his or her school ties. That standard might vary by community. In either case, there might be some person whose school ties were so marginal that they at the very least want to petition for an exception – and who knows – they could deserve to be the exception. People transfer schools, move out of areas as kids and adults, and have numerous other factors that could impact how we feel about a potential conflict of interest.

The biggest problem we find is that the standards aren't complete. They simply can't be. No officials association, league or governing body can envision every iteration of the relationships that can lead to an embarrassing conflict. Or, maybe they can, but they realize that it would take a lengthy booklike conflict of interest questionnaire to ask the needed questions. It's the problem of all information seekers – how many questions can I ask and how long a form can I use before I completely turn you off and tick you off, or alternatively, before I collect more information than I can possibly process.

At the end of the day, most groups produce short conflict of interest forms – thank goodness. However, the short forms and the necessarily incomplete standards leave the door open for undisclosed relationships that we all know are conflicts, but that the official working the game somehow either didn't know or didn't disclose. Many of these conflicts are embarrassing – and fortunately are known only to we officials.

In one state, an official worked a state championship game where his girlfriend was the assistant coach. The conflict form asked about family relationships, and whether one had worked games involving the school in the final. Well, girlfriends aren't family. Score one for the official, but chalk up a loss for officials overall.

In another state, an official was most unhappy to be barred from a championship game after he and his partner engaged in rather public fisticuffs. It's not really a conflict of interest, is it? It sure wouldn't fit into any policy or any form. Yet, most of us would understand that maybe officials who fight at the game site shouldn't be on the game.

We've all seen the official who tells a state governing body that he is from an officials association that doesn't service the teams involved in the state championship game, but fails to disclose that he's worked a game involving one of the teams in some big regional holiday tournament. Chalk one up for the official – hey, the state should have asked a better question. Again, though, we have to acknowledge that these types of acts don't help officials overall. Whatever we may think about the officials association, league or governing body, it doesn't help us overall to turn a conflict of interest policy into a game that we try to beat. If a state wants a neutral crew, that's its policy decision. The official gets to judge a

lot of things, but the official doesn't get to pass judgment on the policy decisions of the state governing body. We must respect our role.

Clearly a conflict of interest policy is necessary, but it's not a cure-all. We have some obligation to create an ethic of unselfishness among officials. We also have to do a better job of educating new officials. Finally, officials associations, leagues and governing bodies might want to explain their policies. People react better when they know the rationale behind a policy.

Officials already have the ethics of integrity. However, we must acknowledge that our integrity notwithstanding, we are competitors at some level. Officials competing for a big game are intensely aware that their success in obtaining that game means that someone else has failed to get it. The competition for the big game does make us better officials, and part of being better officials is the cultivation of the appearance of integrity, professionalism and a finely honed sense of judgment. However, the knowledge that one is competing for an elusive goal that only a small number of us can achieve does open the door for some degree of selfishness. It is this selfishness that we must address in order to prevent our colleagues from taking advantage of conflict loopholes.

We also must address conflict of interest problems through education. It is vital to educate new officials about conflict of interest issues, and teach them why conflict of

interest policies exist. Early education might create the kind of culture in which officials won't take advantage of loopholes in a conflicts policy.

Finally, officials associations, leagues and governing bodies have an obligation to explain the intentions behind their policies. Officials are team players at their core. Officials associations, leagues and governing bodies that trust officials with the rationale behind a conflict of interest policy might be more inclined to help close out loopholes in the policies instead of taking advantage of them. **OQ**

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Collins has taught legal writing at the Hofstra (New York) University Law School, as well as the paralegal program at Sonoma State (California) University while assisting in its athletic department compliance office. He also served a five-year term as a staff attorney at the U.S. Court of Appeals for the Ninth Circuit in San Francisco.

Collins has had more than 40 articles published on sports administration, sports officiating, legal issues affecting sports officials, and sportsmanship. Collins is a member of the NFHS Officials' Quarterly Publications Committee, and recently was named to the Board of Directors of the National Association of Sports Officials.



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