

Is a Verbal Agreement Enough to Expect Payment From a School?

By Donald C. Collins

Q I am an assigner for the local high school leagues. One of the schools has refused to pay the invoices presented to it. The league ended a few weeks ago. The league's board and our association do not have a written contract, only a verbal agreement to provide officials. Do I have any legal means to force the school to pay what it owes?

A Business dealings at the lower levels of sports can be quite informal. It is rather common to see verbal agreements. Payment disputes between assigners and schools do occasionally occur.

Assigners should note that their verbal agreements are contracts. However, assigners should note that most attorneys would not recommend the use of verbal agreements — not because they're not contracts, but because the failure to write the contract down forces assigners and associations to have to prove that there was a contract. It also forces them to have to prove the contents of the contract, which attorneys would generally refer to as the terms of the agreement. That could lead to imperfect solutions on occasion.

Assigners and associations usually do not need to go to court when a school has refused to pay for officiating services. Schools are a rather unique client, and most assigners and officials associations only deal with the athletic department. When a school refuses to pay for officiating services, the best thing to do is to realize that the athletic department is not the final word on school business matters.

If the athletic department refuses to pay for officiating services, an assigner or association should immediately contact the principal. That approach should not be hostile: Remember, you have no cause to be upset with a principal who has

no idea that the athletic department hasn't paid you. An assigner should simply tell the principal that they've provided officials to all the schools in a league, how long they've provided the officials, what the league contract says, what the payment customs and standards are, and then simply conclude by letting the principal know that you have to meet your obligation to pay the officials who serviced the school.

Principals will generally tell their athletic department to pay the officials. They will do so because they are used to seeing slow payments from various departments of their school, they are one step removed from any emotional factors that would lead an athletic department to accept officials and not pay for them, and they don't want to place a legal claim on the desk of some school district lawyer or administrator.

Of course, it is possible that the principal will back up their athletic department and refuse to pay the officials. Should that happen, one does not need to run straight to court. Rather, go to the league, the state governing body and to either the school district's administrative office or the private school's board of directors. One of those entities will likely sway the school to pay its officials.

If all else fails, you may have to go to court. If so, it is wise to go to small claims court. Small claims court exists for cases with small dollar values that are generally less than \$5,000 or \$10,000 depending upon where one lives. In some states, small claims courts have the litigants present their own case without attorneys, which is ideal for what should be a simple collection action. However, other states do allow attorneys. Check on the requirements in your state.

It is highly likely that assigners and associations will win in court. It is difficult to envision a court finding that a great number of officials went out and worked high school games

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without some sort of mechanism, both for assigning the officials and for paying for them. A court may want to know about past practices and industry customs, but those things will show that officials work games for a fee, and they will show that officials almost certainly worked games at that school for a fee in the past.

Assigners and associations may win in court, but they may not get a clean win. Courts can gauge industry standards, past practices and common practices. However, absent a written agreement, a court could have a hard time resolving special clauses in the verbal agreement or clauses that differ from industry customs and past practices. So, if an assigner is paying officials an extra travel fee or providing some extra compensation in certain situations, the court's ruling may not account for that. Absent a written agreement, a win in court could have some elements of a loss.

Ultimately, it is best to have a written agreement. Verbal agreements will stand up, though. They are contracts, and they can be enforced. However, it takes more work to enforce verbal agreements if one of the parties disputes the terms or even the very existence of the agreement. An administrative remedy is probably a better solution here than going to court, but going to court can be an effective last resort.

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