

## Penalty Box for Officials

By Donald C. Collins

Officials associations may penalize members provided they set out the penalties clearly in their bylaws. The bylaws are a contract between the association and the members. Officials associations and many other businesses have economic incentives and disincentives in their contracts.

Penalties can be necessary. Officials associations sometimes need to incentivize members to meet association obligations. However, poorly executed penalties and heavy-handed association actions can create a wide array of problems.

First, ineffective penalties can create angry members. An association can get bogged down with low-level grumbling and complaining. Sometimes, an association will even face an occasional lawsuit — not because penalties are inherently bad, but because the association is heavy-handed and a member eventually lashes out.

Second, ineffective penalties create problems with clients. An association's clients expect certain things. If penalties don't link to the association's obligations, the association can be vulnerable to lawsuits claiming the association didn't deliver well-trained officials. It's hard to defend untrained or unprepared officials when, for example, a player is injured.

An association has to engage in effective communication. Members need to know the objectives. Penalties are a tool to incentivize members to meet those objectives — and to make them better officials. We all want to be good officials so a bit of buy-in goes a long way.

Associations should give their members agency. Involve the members in the decision-making process. They'll have some good ideas on how to make members comply with association needs and obligations — and yes, sometimes they'll have some bad ideas, too. The key is that the members will be involved. That's better than having the members feel they're not involved. When members don't feel involved, penalties can make officials look more

like low-level employees than skilled independent contractors.

Associations have lots of tools to involve members. Associations can disseminate reports and information, have board members solicit member input and even hold direct membership votes on policies and bylaw amendments.

Informing and involving members can go a long way. An informed member is more likely to understand the reason for a penalty. An informed membership may provide feedback and even push back against a penalty early in the process. This feedback and pushback can help an association see when a penalty is no longer necessary; it can even let an association know fines and penalties that worked when the association had 10 members may not be needed now that the association has 30, 40 or 50 members.

Finally, groups that fine and penalize need to keep good records. Keep the documentation behind the penalty. Keep records of any hearings. Don't let your procedures make matters worse, though. Use closed sessions when you have hearings on penalties, fines and other personnel items. Keep the records and take minutes, but keep personnel notes, minutes and files private — i.e. "closed." Don't embarrass your members by letting the membership see minutes of personnel matters — you'll undo all your good work by inviting employment law and defamation lawsuits from the embarrassed member.

A well-run association understands that good management minimizes legal risks. The issue isn't the avoidance of penalties. Rather, it's finding the incentives and disincentives that encourage members to do what's needed, and getting rid of incentives, disincentives and penalties that don't link to the association's or client's needs.

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### Board Duties Bring Additional Liability

Serving on the board of directors of your local association is a great way to give back to the officiating industry. It means a commitment of time and energy and accepting new responsibilities. It also means the possibility of increased liability exposure, which is why it's important for association officers to have additional liability protection. That additional insurance is intended to protect a board member's personal assets if the association is subject to legal action.

NASO members have general liability coverage that provides protection from claims of bodily injury and property damage. Board members also need directors' and officers' (D&O) liability insurance, which covers wrongful acts, real or perceived, by the association itself. D&O insurance is generally something associations purchase for the board.

SOURCE: 3/18 NASO ADVISOR NEWSLETTER

### Negotiating Officials' Pay

While amateur officials aren't looking to get rich from officiating, they still want to get paid what their services are worth. Here are three things that can be done to help make sure pay rates don't get stuck in a long-term freeze:

1. Select leadership for your association with negotiation experience and the understanding of the interests of association members. If your association puts quality leaders in place, it's likely to end up with acceptable terms that meet the needs of members.
2. Associations may want to avoid agreeing to long-term deals with leagues without having the officials' fee increased periodically throughout the contract.
3. Keep the lines of communication open.

Negotiations between leagues and amateur associations need not be lengthy. Open communication will help each side understand what the other side wants and help reach an agreement quickly.

SOURCE: 8/15 REFEREE LAW COLUMN

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