

Cooperative Teaching of Law Pertaining to Sport/Recreation Majors

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■ INTRODUCTION AND PURPOSE OF COURSE

For a number of years the Ashland University Physical Education Department included a unit entitled "legal liability" in the standard Organization and Administration of Physical Education course. During the 1980s as more and more research, texts, journals, presentations and conferences multiplied, the "legal liability unit" expanded to the point that it could no longer be taught as a unit within a course but demanded its own three credit course standing.

Professional preparation curriculum for physical educators, coaches, athletic trainers and recreation personnel were now incomplete without some type of a law problems course.

Greatly influenced by presentations and research of Dr. Annie Clement and Dr. Betty van der Smissen from our state, materials were accumulated, a departmental committee formed, and a course syllabus was written.

In 1985 the departmentally developed syllabus was submitted to the Ashland University Faculty Curriculum as a SG elective course. During the committee's study and consideration sessions, the Curriculum Committee sent the syllabus to all departments on campus where possible overlap might occur. It was at this stage that Eric Akers, J.D., professor of Business Administration, suggested collaboration in the development of an Interdisciplinary course. The Interdisciplinary Studies (IDS) Program seeks to develop a critical appreciation of the different paths knowledge and understanding can take by offering courses which reflect more than one discipline. By approaching issues, current topics and problems of general interest in this way, students learn how the various disciplines integrate and can work together to provide a multi-perspective analysis of topics. For example, "Science as a Cultural Force" is taught by members of the chemistry and philosophy departments and provides different perspectives on current applications of scientific research.

In the course of four years, each baccalaureate student must take a total of twelve hours of IDS credits. This begins in the freshman year with IDS 101 Freshman Studies, a three-hour course which introduces students to college life and curriculum.

Each IDS course can also be taken for credit from one of its participating departments as listed in each semester's schedule of classes. Most IDS courses will simultaneously fulfill an institutional requirement. Some departments offer a senior seminar course for their majors which also counts toward the IDS requirement. Interdisciplinary (ID) courses on our liberal arts campus are strongly encouraged and carefully scrutinized before catalog status IDS concept is awarded.

The course name became Sport and Recreation Law Problems; it gained catalog status in 1988 and became a required course for recreation majors and a strongly recommended elective for majors in physical education, athletic training, and coaching. To our surprise the course also drew a great number of criminal justice majors from the Sociology Department. It is presently being considered for a 400-level number change to be designated as the capstone course for all departmental non-teacher certification majors, thus becoming a part of our general institutional requirements. If this occurs, we will need to offer it annually rather than bi-annually and perhaps offer multiple sections. Dr. Akers and I teach it on a two-thirds/one-third split.

■ INTEGRATION OF LAW WITH SPORT, PHYSICAL EDUCATION, OR RECREATION ACTIVITIES

Because the industry encompasses many events in which legal theory/practice may influence behavior, a systematic discussion of those events needs to occur. The presumption for instruction is that few if any students have viewed the legal discipline prior to this course. Therefore, the initial time is spent on acquainting the student with an understanding of the source of law, steps to and of litigation, and the principal substantive areas of the law most encountered, to-wit: torts, contracts, agency, and governmental regulatory laws (Civil Rights, Administrative Agency Law).

Since Ashland University has some legal resources, the student is referred to these resources as a guide for in-depth research for topics of their required papers. Though the text (*Sports and the Courts*, Appenzeller and Appenzeller, 1980) in use refers to reported cases, students are assigned to read and prepare "briefs" of cases relating to the topic of discussion. Both familiarity with legal publications and understanding reported cases emphasize to the student the reason behind the law, which hopefully prepares them for proper management of legal risks.

The activities are also presented to the student as a business concept. Because many students do not possess a business background, an overview of appropriate business concepts is presented. Emphasis placed in this area on creating appropriate procedural guidelines for any activity, establishing and regulating an appropriate hierarchy of authority, evaluating acceptable standards for performance, of the employee, participant, and spectator, if any, and preparing an acceptable response to problems arising in the activity.

Because the student may be involved in governmental sponsored activities, a brief discussion of the limitations and differences between private business and governmental "business" is presented.

In this area, practical matters are emphasized, not so much due to the business discipline as to the intended course result of preparing the sports major to meet daily situations.

In a related area, attempting to “fit” the law into any discipline requires a common sense approach designed to compliment the student’s overall education rather than to instill fear of the law and its effect. Viewing the industry by integrating many common sense (read:legal) control measures into the sports industry, and doing so in an understandable manner, dispels many negative rumors about how or why the law should be considered.

■ INFORMING STUDENTS OF RISK CONTROL

Presenting the student with the business concept of risk shows to them another view of the activity in which they may be engaged in for their career. Non-business students frequently do not view their major as presenting a risk of loss based on the unanticipated outcomes of what they may normally perceive as the “norm” of the activity. Therefore students need to understand that in any activity the possibility of loss exists and must be anticipated.

Risk Management assumes that the sports manager has as his/her job function a proactive task of identifying situations in which risk of injury may occur and reduce the extent of the risk involved. This can occur by avoidance of the risk (eliminating the activity), minimization (control of the risk), or risk transfer (passing the risk on to another). In such cases, the student needs information on the legal effects of such action.

The student needs to be acquainted with identifying and measuring exposures to loss, developing and implementing plans to deal with potential losses after they have been identified, and then regularly reviewing and updating the risk management program they or their superiors have developed.

From both actual legal cases and sporting events, discussion seeks to identify instances where risk may occur. From this, the student is asked to identify practical and legal measures which may manifest risk management. A particular case (See Appendix) involving Ashland University is presented to show the student the real life scenario.

■ RESPECTIVE ROLES OF THE INSTRUCTORS

The following is the course material presented of basic legal material:

1. Theoretical Presentation
 - a. Foundations of Law
 - b. Substantive and Procedural Law
2. Application Through Case Law and Statutory Interpretation
 - a. Case Law
 - i. precedence
 - ii. dynamics of common law
 - iii. “sports law” cases in contracts and torts
 - b. Statutory Law
 - i. federal, state, local law
 - ii. administrative agency law
 - iii. interpretation by enforcement
 - iv. interpretation by judicial action
 - v. non-governmental regulatory entities
 - c. Litigation Considerations

- i. how to evaluate
 - ii. when to try/negotiate settlement
 - iii. changes in policies/practice as a result of actual/threatened litigation
3. Practical Measures of Risk Prevention or Minimization
- a. Setting Reasonable Standards
 - b. Affording Due Process or Fairness
 - c. Monitoring Enforcement of Standards
 - d. Modifying Standards to Meet Anticipated Change
 - e. Responding to Unanticipated Change
 - f. Reacting to Loss
 - g. Reducing/Transferring Liability for Injury

It is at this point where we introduce the professional methods, techniques and administration policy procedures which are part of every training program for sport scientists, i.e., physical educators, coaches, recreation directors, etc. that follow safe conduct practices of physical activities.

Dr. Betty van der Smissen's four "Ps", "Be a Positive Person, Be a Positive Professional Person, Be a Promoting Power for Peerless, and Peak Performance" to which we add some additional "Ps": Pace your activities Prudently, Plan and Prepare to Parley small differences, and Pay attention to a Potential Plaintiff are greatly emphasized.

■ MONITORING THE INTEGRATION OF LAW AND SPORTS ACTIVITY

Formalizing class participation is difficult to the student unaccustomed to the inductive educational approach. Having the student prepare a formal analysis of a case compels the student to apply a critical thought process on a greater learning level. Through the briefing of cases related to the topic the student can grasp the significance of why the law must be considered.

Additionally, by identifying the legal issues which may arise, the student may evaluate the degree of fairness to dissimilar interests. As this occurs, an intended course result of resolving issues with a sense of justice may give the student a better understanding of the role of ethics in the legal process.

The lawyer and sports educator frequently create a comparison of each other's role in the delivery of this information. Too infrequently does the sports person review his or her activities before liability arises, and to instill into the student the need for preparation in this area is a fundamental part of the lawyer's presentation. By the same token, undue emphasis of the legal side constricts the student's view of the activity.

Utilizing actual legal cases from publications such as *Sport and The Courts* and *Sports, Parks and Recreation* as well as hypothetical cases devised from the many years of actual sport and administrative experiences of the professor, students interact in dialogue putting into practice legal thought processes developed earlier in their course instruction.

Though encouraged to keep abreast of sport and recreation law issues and court decisions, the students are cautioned that this one course does not an "expert" make and that their best protection from legal entanglements comes from adhering to approved professional practices in a consistent manner.

The interdisciplinary nature of the course has been very successful on the Ashland University campus in large part due to the basic mission and goal which advocates IDS.

Since more than just the sport major may be in the class, an overall review must be provided. Therefore, as and when application of legal principles to sports in particular, and business in general, are provided can the student understand the importance of the course. Further, when the question of social justice arises, and no particular solution is available, a rational discussion of the varying points of view allow the student to understand the dynamics of law and society.

Learning from an inductive point of view also aids the student to prepare for the activity. Law is a self-referential matter, requiring its own justification for authority. When the student realizes that unless the issue relates to such a social issue as to require a popular voice, it is the foundation of the law that signifies its validity. Therefore, though the legal instructor may seek to create a discipline-oriented approach to the topic, reference frequently returns to the law for proof.

Since the legal and the sports educator present different perspectives, the student's learning is enhanced because of at least two views on the topic.

Measuring the success of course content in the legal area poses a difficult task. Students do not want to be law students, yet instructors desire proof of the extent to which to the students have understood the workings of the law.

Since judicial law may vary because of jurisdiction, applicable law or facts, the evaluation devices are designed to test not so much whether the student has found the "right" answer, but whether the student can justify the answer they have chosen. This can best be done by essay questions presenting a factual situation and requiring the student to identify the legal or sports management issues, stating the applicable legal theory, and presenting a logical argument to support their answer.

■ CONCLUSION

Though the success of this course remains unproven, the feedback from students is positive. This area of the sports/recreation major cannot be stressed enough to better the student's overall understanding of the profession chosen for their career. Should approval be given to use this course as a capstone course, its utility will be greatly influenced.