

The Courts and Student-Athlete Good Conduct Rules

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■ INTRODUCTION

Since 1858, when eleven-year-old Peter Lander referred to his teacher, in the presence of a few of his classmates, as “old Jack Seaver,” public school officials have attempted to extend their authority over student behavior occurring after school hours and off school property (*Lander v. Seaver*, 1859). The punishment for the offense was a whipping with a rawhide strap at school the next day. Peter’s father thought the punishment for a name-calling incident after school hours was outside the teacher’s legal authority and brought suit. The trial court in Vermont found that the teacher’s actions were justified. The issue brought to the bench relates to a teacher’s right to punish a student for misbehavior committed after school hours (Bartlett, 1993).

The Vermont Supreme Court (1859) determined that a teacher’s authority should extend to the actions of students after school hours and off school property only when the students’ actions had a “direct and immediate” relationship to the management and operation of the school. The court concluded that the power to punish students for offenses that directly and immediately impact school officials’ institutional control and management “is essential to the preservation of order, decency, decorum, and good government in schools” (p. 119).

Other schools have also exercised similar intrusion into a student’s off-campus activity in the 136 years since the Vermont court upheld the extension of school authority to a student’s out-of-school conduct. One of the most litigated areas involves the conduct of student-athletes involved in extracurricular activities. Often this extension of school control results in undesired controversy and disruption. Even though school rules governing athletes’ out-of-school conduct are controversial, they remain quite prevalent and have been the subject of considerable litigation over the last two decades (Bartlett, 1993).

In 1991 the New York Times ran the following headline, “Quarterback’s Beer Focuses Town on Drinking Rule.” The article focused on a school conduct rule that bans student-athletes from participating on a school team for the entire season if caught drinking alcohol. Glaberson (1991) reported,

A glass of beer and the family of a high school quarterback have forced this town (East Aurora, NY) to confront issues of teenage drinking that many communities fail to recognize or choose to ignore.

It began on Labor Day, when an assistant coach of the town's high school saw the quarterback, Matthew J. Plauman, 17 years old, drinking a beer at the Fire Department picnic and reported him to school officials, who decided to enforce the rule that students caught drinking be banned from athletic teams for an entire season (p. B-1, 4).

As explained in the New York Times, the incident escalated into a major problem as,

Mr. Plauman's father, incensed that his son was being singled out when drinking among high school athletes was a common as after school cruising down Main Street, supplied school officials with a list of other athletes who had attended a drinking party along with his daughter.

Mr. Plauman's actions resulted in the suspension of seven other members of the 33-player football team, including the quarterback, for the remainder of the season.

A question asked by many townspeople was, Should a kid have his opportunities for a football scholarship ruined for one minor indiscretion? The School Superintendent Mr. Fort said, he was distressed by the heat generated over an athletic issue that would seldom accompany an academic issue.

Disciplining youth for drinking is a concern of school authorities, both in terms of constitutional right of due process (*Wood v. Strickland*, 1975) and appropriateness of punishment (*Tomlinson v. Pleasant Valley School District*, 1984). In Claiborne (1988) three students consumed alcohol en route to a high school football game and were suspended from school. The school policy stated that any student using alcohol prior to coming on school grounds or to school sponsored events would be expelled from school for one semester. As decided by the court, the school's policy was held to be unconstitutionally vague and overbroad. Further, in Tomlinson (1984), two students were expelled for ten days, directed to participate in a ten-week counseling program (external to the school), and could not participate in extracurricular activities for the remainder of the school year for drinking a soft drink containing whiskey. Similarly, the court modified the penalty on the basis of its being excessive.

This article will discuss the legal framework for student discipline, a school's authority to make good conduct rules, the role of the coach in establishing and implementing good rules, rules of conduct, vagueness and notice, questions school authorities and others need to ask when contemplating good conduct rules, and risk management guidelines.

■ LEGAL FRAMEWORK FOR STUDENT DISCIPLINE

In reviewing the case law for student discipline, it consists of the following legal issues: (1) bases of control, (2) scope of control, (3) *In Loco Parentis* Doctrine, (4) presumption of validity, (5) test of reasonableness, and (6) role of the courts. Each of these issues will be addressed in the following paragraphs.

Bases of control

In all states school boards have express or implied powers to adopt rules and regulations relating to student conduct. Typically, statutes grant to boards of education a continuum of powers. For example, many states have excessively strict statutes prescribing how school corporations or districts can raise and expend funds as well as those that appear excessively lenient that deal with student conduct. Among those statutes that deal with student conduct, some expand or contract the common law, others establish procedures to be used in meting out punishments, and some prohibit specific punishments (Reutter, 1975).

It is impossible to promulgate rules and regulations to cover all situations; therefore, not all rules need be in writing to be enforceable. Furthermore, the courts, out of concern for practicality and reality, recognize administrators and teachers must possess implied powers to control pupil conduct as necessary. However, it is critical that school administrators inform students of expected conduct prior to actual discipline or punishment. Courts have looked favorably on schools when students have been informed through written statements, oral instruction, or video instruction.

Scope of control

The control school authorities may exercise over the activities of students is circumscribed by the nature of the relationship between public schools and pupils. Rules and regulations must have as their objective the proper functioning of the school, and must reasonably relate to the purposes for which schools are established. Courts recognize the need for an environment conducive to learning and agree that activities which disrupt the learning process itself are punishable (Reutter, 1975). Even conduct off school premises can be controlled by school authorities, if it can be shown to be deleterious to the efficient operation of the school, such as the consumption of drugs and alcohol at social gatherings. The crucial issue is the effect of the conduct on the operation of the school, rather than the time or place of the offense. However, it is much more difficult for school authorities to justify the reasonableness of control exercised over out-of-school activities of students (Reutter, 1975).

***In Loco Parentis* doctrine**

The *in loco parentis* concept is a common-law measure of the rights and duties of school authorities relative to students attending school. The doctrine, dating back to the late 1800s, means that the individual or agency which is providing for a child stands in the place of a parent and is charged with a parent's rights, duties, and responsibilities (van der Smissen, 1990). *In loco parentis* does not extend beyond matters of conduct and discipline (van der Smissen, 1990).

In order to properly implement the functions of the school, it is necessary for school authorities to have the authority to direct and punish the student for infractions, much as a parent would. The inference is that school personnel may establish rules for the educational welfare of the student and the operation of the school and inflict punishments for disobedience.

Although coaches may stand *in loco parentis* as regards the enforcement of conduct rules and authority (discipline), coaches do not stand *in loco parentis* with regard to their negligent acts, and coaches do not have the same immunity accorded to parents (van der Smissen, 1990).

The presumption of validity of the rule

The law presumes that school personnel will exercise authority properly. Further, in claims of improper application of authority, the burden of proof is on the person (parent) making the claim. However, the board must have some basis (rationale) for its action other than the assertion that it is acting in the best interests of the student and school. Particularly the closer a rule comes to infringing upon a basic constitutional right of a student, the more justification school authorities must have for the rule (*State ex rel. Burpee v. Burpee*, 1878).

The test of reasonableness

Courts ultimately determine the reasonableness of action taken by the school board or its personnel. The term “reasonable” infers that the action could be accepted by the persons of normal intelligence as rationally appropriate to the (legitimate) end in view (Nolan & Nolan-Haley, 1990). For the test of reasonableness, a rule of student conduct must be assessed in terms of the educational goal to be achieved and the likelihood the rule will help achieve that goal (Reutter, 1975).

The role of the courts

The courts will not interfere with an act of the legislative or administrative branch unless either has exceeded its powers or has abused its discretion. The key question before a court is whether the rule restricts a so-called “fundamental” right, explicitly or implicitly guaranteed by the Constitution. In this situation the burden of proof of an overriding need is placed on the school authorities. Additional consideration is given to whether the rule is essential to the school’s efficient operation.

A school’s authority to make good conduct rules

As mentioned earlier, a number of litigated cases involving school conduct and discipline question the discipline applied to a student-athlete. Conduct rules are many times adopted in an effort to exercise control over the athletes to insure that they behave appropriately. These rules vary widely in content but, most require that athletes maintain good conduct and specify that deviation from the norm will result in sanctions being applied to the errant athlete. However, the rules are general in content and typically fail to specifically define what constitutes “good conduct.” This limitation presents a number of problems with respect to their legality and enforceability (*Bunger v. Iowa High School Athletic Association*, 1972).

In order for a given rule to conform to accepted standards, it must meet two requirements: a) non-constitutional and b) constitutional standards. A good conduct rule may be authorized, even if non constitutional, if it could be proven to relate to a legitimate, athletics-related objective of the school or organization. For example,

if the school was developing a drug-free atmosphere it could establish rules relating to the use of drugs and alcohol. Similarly, a rule would be a reasonable exercise of authority only if it affects persons whose conduct it is necessary to control. A rule which affects other persons (e.g., non-athletes) would be over-inclusive and, possibly, unreasonable (*Bunger v. Iowa High School Athletic Association*, 1972).

The leading court decision on the issue of the legal authority of schools and other organizations to promulgate good conduct rules is *Bunger v. Iowa High School Athletic Association*, 1972. The rule at issue in *Bunger* was adopted by the state boys athletic association, to which all but one school district in the state belonged. It became part of its good conduct provision in a section known as the "beer rule," which provided that an athlete would lose six weeks of eligibility if he possessed, consumed or transported alcoholic beverages or dangerous drugs, and for knowingly being in a vehicle carrying alcoholic beverages. The court, utilizing the non-constitutional standard, as outlined above, found that the rule was invalid and unenforceable because the presence of an athlete in a car containing an alcoholic beverage out of season simply has no relation to the athletic program. Further, the court found the rule to be unreasonable because it was over-inclusive and swept within its ambit the guilty and the non-guilty alike (*Thompson v. Barnes*, 1972; *O'Connor v. Board of Education*, 1970; *Randolph v. Newburg Public School Board*, 1975).

Even though the court disposed of the issues based on a non-constitutional standard, it agreed to rule on the appropriateness and general legality of good conduct rules. The court first noted that a valid school rule must pertain to conduct that has a relationship to the management and operation of a school. Further, the court found that a direct relationship existed between the out-of-school conduct of students engaged in extracurricular school activities, including athletics, and the management and operation of the school. It concluded, "that it was reasonable to hold students involved in extracurricular activities to a higher standard of conduct because they were school leaders and represented the school in the eyes of the community" (p. 564). The court went on to explain that as representatives of the school, and as role models for other students, athletes could be held to a higher standard of behavior than nonstudent athletes. Finally, the court signaled clear approval for the concept of good conduct rules and gave Iowa schools a clear picture of the limits to which good conduct rules could be extended. Drinking, possessing, acquiring, delivering, and transporting alcoholic beverages during the sport season or during the school year could be prohibited by school rule. Even violation of state laws governing alcoholic beverages, including during the summer months, could also be punished under good conduct rules (*O'Connor v. Board of Education*, 1970).

Similarly other courts have found that school officials act reasonably in the adoption and enforcement of good conduct rules intended to deter the use of alcohol and drugs (*Felton v. Fayette School District*, 1989; *Katchak v. Glasgow Independent School System*, 1988; *Brands v. Sheldon Community School District*, 1987; *Bush v. Dassel-Cokato Board of Education*, 1990). In *Braesch v. DePasquale* (1978,79), the Nebraska Supreme Court stated that rules governing interscholastic athletics, "ought to be valid and enforceable unless they are clearly arbitrary and

unreasonable and serve no legitimate end of educational athletic policy” (p.847). Further, in *Schail v. Tippecanoe County School Corporation* (1988), the Seventh Circuit upheld the enforcement of a good conduct policy (urinalysis testing) and determined that school officials should be given latitude in dealing with alcohol and drug problems among athletes. The court further determined that school officials could enforce good conduct rules that have been developed to “combat health and disciplinary problems” and “they would not be overturned unless unreasonable in light of available alternatives” (p. 1323).

On the other hand, a number of courts have concluded that a school’s good conduct rules are unconstitutional because they violate student rights protected by First, Fourth, and Fourteenth Amendments (*Brooks v. East Chambers Consolidated Independent School District*, 1989; *Claiborne v. Beebe School District*, 1988).

The constitutional requirements that a rule must meet are largely dependent upon the facts and circumstances of a particular situation. There are at least four separate constitutional problems posed by good conduct rules, including (1) infringing upon the Equal Protection Clause of the Fourteenth Amendment, which would be used to determine whether a classification created by a good conduct rule is constitutional (*Dunham v. Pulsifer*, 1970); (2) regulating what is believed to be conduct may constitute regulation of speech or speech-related conduct which is protected by the First Amendment; (3) being in violation of due process of law because of their vagueness or lack of specificity (*Thornhill v. Alabama*, 1940; *Soglin v. Kauffman*, 1968, 69); and (4) having difficulty if it has the effect of creating presumptions (*Andrews v. Drew Municipal Separate School District*, 1975).

Finally, a rule should be adopted by the legally constituted authority. Failure of a local school board to formally adopt the rule in those states where the authority lies with the board may result in an unenforceable rule (*Manico v. South Colonie Central School District*, 1992). Once the rule is adopted the terms of the rule must be followed. If the rule is not enforced properly courts have not upheld the rules (*Davis v. Central Dauphin School District School Board*, 1979).

■ THE ROLE OF THE COACH IN ESTABLISHING AND IMPLEMENTING GOOD RULES

The student-athlete is subject to the supervision and direction of the coach. A coach in a public school is generally considered to have broad authority to control within reasonable and constitutional limits those aspects of the student-athlete’s life which directly relates to athletic performance. This authority includes the power to establish and maintain health and good conduct rules, to direct and conduct practice session, to issue reasonable instructions during competition which will be accepted and followed without question, and to impose sanctions for violation of such instructions (Weistart & Lowell, 1979). However, the coach’s authority is not all-inclusive and does not include the right to regulate those aspects of the student-athletes’ lives which do not relate to athletic performance. The court, in *Dunham v. Pulsifer* (1970), stated, “A coach may not demand obedience to a rule which does not in some way further other proper objectives of participation and performance” (p.420). Further, in *Clary v. Alexander County Board of Education* (1973), the court

determined that an athlete must disregard a coach's order. As explained by the court, "A reasonable man under similar circumstances would know that this compliance with such orders would result in injury" (p. 732).

There is no case law to date which specifically addresses the breadth of power that is possessed by the public school coach. However, if a court were to review a coach's authority relating to good conduct rules, it would determine whether (1)(a) a coach had authority to impose a good conduct rule, (b) the rule was reasonable and constitutional, (2) coach's conclusion was justified, (3) the athlete was entitled to notice and a hearing prior to the imposition of the suspension, and (4) the sanction was reasonably related to the offense committed (Weistart & Lowell, 1979). The standards that would be used to resolve the inquiries require, in essence, only that the coach act in a fair and reasonable manner. There is no clear and concise answer to the specific limits of a coach's authority, but the above guidelines are indicative of the procedure a court would implement when analyzing a coach's discipline as it relates to good conduct rules.

RULES OF STUDENT CONDUCT

In general

The power of school authorities to adopt reasonable rules and regulations covering student conduct has been established by the courts. However, reasonableness of rules usually cannot be decided in the abstract, but only in the context of application. In other words, whether a rule may legally be enforced depends upon the fact situation. All rules must be connected with the welfare of the schools. School boards can prohibit conduct which is detrimental to the operation of the schools.

Clearly a compelling interest of the state is the maintenance in its school of a proper atmosphere for learning. But many rules ostensibly so aimed have been invalidated by courts because they are not rationally connected with the purported objective, or they are too vague as to what conduct is proscribed by them, or they are overbroad in that they encompass constitutionally protected activities along with those which may be restricted in the school setting.

While students have a right to know what is prohibited, it is well settled that discipline rules need not meet the stringent criteria judicially required for acceptability of criminal statutes (*Esteban v. Central Missouri State College*, 1969, 70; *Soglin v. Kauffman*, 1968, 1969; *Sword v. Fox*, 1971; *Murray v. West Baton Rouge Parish School Board*, 1973; *Black Coalition v. Portland School District Number 1*, 1973). Therefore, although "misconduct" (*Soglin v. Kauffman*, 1975) and "conduct to the best interest of the school" (*Mitchell v. King*, 1975) standing alone have been declared unconstitutionally vague, "dangerous drug" (*Fisher v. Burkburnett Independent School District*, 1976), "loitering in the areas of heavy traffic" (*Alex v. Allen*, 1976) and action that "unreasonably interferes with... the right of access to [school facilities]" (*Sill v. Pennsylvania State University*, 1972) have survived the challenge of vagueness. Conduct which is not clearly disruptive to the educational environment requires more detail.

The rule, the punishment, and the process of determining the punishment are all different matters impacting the whole process. In drawing implications from decided cases it is extremely important, therefore, to differentiate among the rule, the punishment, and the process of determining the punishment.

Drinking and drug abuse

The purpose for drug and alcohol rules is two-fold. First, drinking and drug related rules are intended to protect the health and well-being of the student-athletes. Second, these rules are intended to prevent over-zealous persons from administering drugs to student-athletes in an effort to enhance athletic performance. In order for the rule to be valid it would have to be proven that there had to be evidence of drug abuse by student-athlete. A rule of this nature would be reasonable so long as it affected only those persons whose conduct it is necessary to control. Further, a drug/alcohol rule must also be constitutional. It must survive the limitations imposed by the due process clauses of the Fifth and Fourteenth Amendments, and the Fourth Amendment's prohibition of unreasonable searches and seizures.

Rules prohibiting use of alcoholic liquor or drugs by participants in interscholastic athletics are clearly appropriate (*Braesch v. DePasquale*, 1978, 1979). In *Richardson v. Braham* (1933), this court held that the right of public schools to make reasonable rules for student conduct was appropriate. The court further explained that unreasonable, arbitrary, or invasive of private rights. Further, the court said, "wisdom or expediency of a rule adopted by a school board and the motive prompting it are not open to judicial inquiry, where it is within the administrative power of that body" (p. 561). In *Bush v. Dassel-Cokato Board of Education* (1990), a student-athlete attended a student party at the end of the school year at which alcoholic beverages were being served to minors. However, the particular student-athlete did not consume any alcohol. The school good conduct rule indicated that attendance at such a function was prohibited and the student-athlete was banned from swimming in two meets during the next school year. The student's complaint suggested that this rule impermissibly burdened her First Amendment right of freedom of association. The student's allegation was not upheld by the court since this type of association is neither intimate nor expressive association entitled to constitutional protection. The court further indicated the rule met the rational relationship test under an equal protection claim because the intent of the rule was to prevent peer pressure upon those who were nondrinkers at a social gathering. Finally, in *Katchak v. Glasgow Independent School System* (1988), interscholastic baseball players were suspended for five days because they violated school rules by drinking alcohol at a school sponsored event. They sought relief from the court on the basis that there was infringement of their substantive due process rights. The court, on the basis that the length of the suspension was not unreasonable in view of the infraction in question, denied the injunction.

Therefore, if a rule is narrowly drawn and affects those who are proven to have used or administered a drug which in fact detrimentally affects athletic competition, it will be reasonable. But, if it affects persons whose conduct need not be the subject

of control, because either they did not use or administer drugs or the drugs used cannot be proven to affect competitive activities, then it will not be reasonable.

The Iowa High School Athletic Association (1990) polled nearly 3,800 male student-athletes in Iowa, a state where good conduct rules are prevalent, and found that 25% of the respondents used alcohol and 15% used illegal drugs during the competitive season. Further, the two most common times of reported use were after practice and games. The respondents also indicated that 45% had used alcohol and 22% illegal drugs during the previous year. Many of the school authorities in Iowa suggested that good conduct rules deter student use of alcohol and drugs. But do good conduct rules really have that result?

■ VAGUENESS AND NOTICE

Usually the courts find in favor of the school authorities unless the challenge to the good conduct rule is based on the vagueness of terminology used by the school authorities in adopting a rule, or the application of a rule in questionable situations. In *Davis v. Central Dauphin District School Board* (1979), the court recognized that the general test to be applied in a challenge on grounds of vagueness required that a school rule providing a penalty should not be so vague that it fails to provide a fair warning that the conduct engaged in might lead to punishment. However, in *Manico v. South Colonie Central District* (1992), a high school wrestler admitted to his guilt in stealing muffins from the school cafeteria. He was given a two-day academic suspension by the principal and was suspended for the remainder of the wrestling season by the athletic director. The court ruled the athletic suspension to be arbitrary and capricious. The Board of Education had not adopted the Interscholastic Athletic Guide which the athletic director cited as authority for his actions; but, even if adopted the Guide failed to set forth minimal due process standards and was ambiguous regarding what was actually a transgression.

A Minnesota court (*Bush v. Dassel-Cokato Board of Education*, 1990) ruled that the rule phrasing was valid because “persons of common intelligence would have no difficulty” understanding the meaning of the rule. Further, an Illinois court (*Lements v. Board of Education*, 1985) determined the phrase “anti-social behavior” was rather “indefinite” and generally was attributed a different meaning in the community; however, since the coach had orally told the team that drinking would result in a suspension from the team and had advised the athletes to stay away from parties where alcohol was served, the court was reluctant to second-guess the enforcement decision. Further, in the *Huffer* case (1989), an interscholastic wrestler was suspended from school and the team because he attended practice while “under the influence” of alcohol. Both the trial court and the court of appeals found that the high school policy, which defined when a person was “under the influence,” was overbroad. However, the Ohio Supreme Court upheld the policy when it determined that the definitional elements of the policy were only the starting point in the investigation by school authorities. Finally, in *Wood v. Strickland* (1982), the court stated that school officials should be allowed to determine, without court interference, the meaning of the phrase “alcoholic beverage in a school rule.” The United States Supreme Court has provided school authorities a discretionary latitude in interpreting school rules, and decided not to second-guess them in determining the meaning of their rules.

The issue of vagueness of school rules is part of the bigger issue of whether the student had notice of proscribed conduct. Was the rule stated and publicized in such a way that students and their parents would reasonably know that their conduct could result in suspension of eligibility from school activities? A common approach taken by schools to provide notice is to supply all students and parents copies of handbooks containing school discipline rules, including good conduct rules. Some schools go as far as to have students (*O'Connor v. Board of Education*, 1970; *Buhlman v. Board of Education*, 1981; *Katchak v. Glasgow Independent School System*, 1988) and parents (*Davis v. Meek*, 1972) sign a document verifying their knowledge of student discipline rules. In *Schail v. Tippecanoe County* (1988) students were required to sign a consent form agreeing to submit to urinalysis testing as a means of enforcing a good conduct rule.

■ SUMMARY AND CONCLUSIONS

Student-athletes are held to a higher standard of behavior under good conduct rules, including out-of-school actions, than other students. The courts historically allowed school authorities a great deal of latitude in the development and enforcement of good conduct rules, insofar as continued eligibility for activities is concerned, since student-athletes are viewed as school leaders and representatives of the school and community (Bartlett, 1993).

The primary means by which the regulation of amateur athletics is accomplished is through the making and enforcing of rules by the organizations (game rules, sponsorship, recruiting, etc.) or school authorities (good conduct rules) responsible for the conduct of athletic competition. This is one of the most important aspects of athletic regulation. If it is properly accomplished it will: (1) advise participants of their rights and duties, (2) foster the public's belief in the fair and honest administration of amateur athletics, and (3) require the regulating bodies to think through problems that exist in their sports in order to formulate appropriate rules.

The courts have traditionally given broad deference to the actions of public schools. Since the late eighties this deference has been limited by an increased judicial willingness to review such actions on their merits; however, the scope of the court's review continues to be quite limited. A court will not review a challenged rule to determine its wisdom or lack of wisdom (*Paschal v. Perdue*, 1970; *Brown v. Wells*, 1970; *Louisiana State Board of Education v. National Collegiate Athletic Association*, 1972; *Wood v. Strickland*, 420 U.S. 308, 95 S.Ct. 992, 43 L.Ed. 2d214, 1975). These are issues which properly belong to the body who is vested with responsibility for making the rules, and the courts will not substitute their judgement for that of the appropriate entity. However the court's review will determine whether the rule meets appropriate legal standards. The court reviews the rule on two levels of inquiry ... non-constitutional and constitutional. Based upon the results of the review the court will determine whether a rule is appropriate and enforceable.

The non-constitutional inquiry focuses upon whether a rule in question is: (1) a proper exercise of the rule-maker's authority, (2) within the authority of the rule-maker, and (3) a reasonable exercise of that authority. While the constitutional inquiry will subject the rule to the basic principles that are applicable to the equal protection clause and substantive due process of law.

All rules governing the conduct of participants in interscholastic athletics duly and regularly adopted by school authorities ought to be valid and enforceable unless they are clearly arbitrary and unreasonable and serve no legitimate end of educational athletic policy. Courts need to require proof from school authorities that good conduct rules are effective not merely accept the opinion of school authorities.

In addition, those who promulgate and enforce rules and student-athletes and their parents need to understand the following points when they consider good conduct: (1) it is impossible to promulgate rules to cover all situations, therefore rules need not be in writing to enforceable; (2) before being subject to punishment for an infraction, a student must be informed as to expectations of conduct through a written statement, oral instruction, or observance of general custom; (3) rules must have as their objective the proper functioning of the school, and reasonably relate to the purposes for which schools are established; (4) the closer a rule comes to infringing upon a basic constitutional right of a student, the more justification school authorities must have for the rule; and (5) a rule of student conduct must be assessed in terms of the educational goal to be achieved and the likelihood the rule will help achieve that goal.

■ **QUESTIONS SCHOOL AUTHORITIES AND OTHERS NEED TO ASK WHEN CONTEMPLATING GOOD CONDUCT RULES**

The following questions need to be asked by school authorities and others when developing good conduct rules and determining how they should be enforced:

- Why do so many student-athletes violate good conduct rules if good conduct rules are really an effective means of dealing with serious problems of youths?
- Can good conduct rules instill discipline in the student-athletes or are school authorities fooling themselves and the courts?
- Are good conduct rules being developed for meaningful action with significant results or are they merely public relations tools?
- Should good conduct rules be generally upheld by the courts?
- Should courts begin to look more closely at the educational efficacy of good conduct rules and force schools either defend the legitimacy of the rules or abandon them in favor of other, more effective approaches?

■ **RECOMMENDATIONS**

The following recommendations are offered to assistant school authorities, athletic directors, and coaches in the development of reasonable and enforceable good conduct rules.

Minimum essentials of enforceable rules are:

- The rule must be publicized to students. Whether it is used orally or in writing, school authorities must take reasonable steps to bring the rule to the attention of students and parents.

- The rule must have a legitimate educational purpose.
- The rule must have a rational relationship to the achievement of the stated educational purpose.
- The meaning of the rule must be reasonably clear.
- Although a rule of student conduct need not meet the strict requirements of a criminal statute, it must not be so vague as to be almost completely subject to interpretation of the school authority invoking it. The more vague or indefinite the rule, the less likely it is to be upheld by the courts. Rules should be stated briefly and explicitly and should minimize the latitude for interpretation and personal discretion. For example, a rule that prohibits hair from extending below a football helmet is far less subject to individual interpretation and bias and more easily defensible in court than one that simply prohibits long hair.
- The rule must be sufficiently narrow in scope so as not to encompass constitutionally protected activities along with those which constitutionally may be proscribed in the school setting.
- If the rule infringes a fundamental constitutional right of the student, a compelling interest (health and safety) of the school in the enforcement of the rule must be shown. Any and all restrictions imposed must relate directly to the safety of the participants. For example, regulations that require the removal of jewelry (i.e., rings, necklaces, and ear rings) would be almost universally accepted, whereas a rule imposed primarily for the sake of conformity might not be.

Further, the benefits of the rule must clearly outweigh the restrictions they impose on the constitutional rights of the participants. For example, a requirement that all wrestlers cut their finger nails, have clean shaven faces, and moderately short hair would probably be justifiable because the gains in terms of safety significantly outweigh the minor loss of individual freedom.

- All rules should be evaluated (least restrictive means test) to make sure there is no reasonable alternative that is less restrictive of the constitutional rights of the participant. For example, a rule requiring short hair for all male swimmers could easily be related to sanitation and reduced water resistance; however, both of these concerns could be overcome by a simple bathing cap. The latter would be less restrictive on the limits of the individual's rights and freedoms.

Risk Management Guidelines

There are two-steps in the development of a sound good conduct system. The steps are:

- (a) define team rules for good conduct, and
- (b) enforce team rules.

Student-athletes want clearly defined limits and structure for how they should conduct themselves. As the coach, it is your responsibility to have a systematic plan for developing and maintaining good conduct for the team. Coaches who have taken the time to establish good conduct rules will be in a position to react in a reasonable manner when athletes misbehave.

The first step in developing a plan to maintain good team conduct is to identify what you consider to be desirable and understandable conduct by your student-athletes. This list can then be used to establish relevant team rules.

Your student-athletes should be involved in establishing the rules of conduct for the team. This can be done at a team meeting, early in the season.

Rules of conduct must be defined in clear and specific terms. For instance, a team rule that athletes must “show good sportsmanship” in their contests is not a very clear and specific rule. What, exactly, is showing “good sportsmanship”? Does it mean obeying all the rules, calling one’s own fouls, or respecting officials’ decisions?

The following are examples of desirable and undesirable conduct and a team good conduct code:

■ DESIRABLE - UNDESIRABLE CONDUCT

| Desirable Conduct | Undesirable Conduct |
|--|--|
| Making every effort to attend all practices and contests except when excused for justifiable reasons | Missing practices and contests without legitimate reasons |
| Being on time for practices and contests | Being late or absent from practices and contests |
| Listening to instructions | Talking while the coach is giving instructions |
| Concentrating on drills | Not attending to demonstrations during drills |
| Treating opponents and teammates with respect | Pushing, fighting, and/or using abusive language with opponents and teammates |
| Giving positive encouragement to teammates | Making negative comments about teammates |
| Bringing required equipment to practices and contests | Habitually forgetting to bring required equipment or uniform to contests and practices |
| Reporting injuries promptly | Waiting till after the team roster is set to report an injury |
| Helping to pick up equipment after practices | Leaving equipment out for others to pick up |

■ A TEAM GOOD CONDUCT CODE

| Concerns | Good Conduct | Poor Conduct |
|---------------------------------|--|---|
| Behavior toward officials | When questioning officials, do so in an appropriate manner | Arguing with officials Swearing at officials |
| Behavior toward opponents | Treat all opponents with respect and dignity at all times | Arguing with opponents Making sarcastic remarks about opponents Making aggressive actions toward opponents Swearing at opponents |
| Behavior toward teammates | Give only constructive criticism and positive encouragement | Making negative comments or sarcastic remarks Swearing or arguing with teammates |
| Behavior toward spectators | Make only positive comments to spectators | Arguing with spectators Making negative remarks/ swearing at spectators |
| Rule acceptance and infractions | Obey all league rules | Intentionally violating league rules Taking advantage of loopholes in rules |
| Spectator behavior | Make only positive comments to players, coaches, and officials | Making negative comments or sarcastic remarks |

Not only are rules needed to maintain good conduct, but enforcement of those rules must be consistent so recurrences are less likely. Good conduct rules are enforced through rewards and penalties. Players should be rewarded when they abide by the rules and penalized when they break the rules. For each good conduct

rule there should be rewards and penalties developed with suggestions from the student-athletes.

The best way to motivate athletes to behave in an acceptable manner is to reward them for good behavior. Penalties are only effective when they are meaningful to the student-athlete.

When the good conduct rules for proper conduct have been outlined and the rewards and penalties have been determined, they must then be stated clearly so the student-athletes and parents will understand them. The student-athletes and parents must understand the consequences for breaking the rules and the rewards for abiding by the rules.

■ APPROPRIATE EXAMPLES OF REWARDS AND PENALTIES

| Rewards | Penalties |
|---|--|
| Being a starter | Being taken out of a competition |
| Playing a desired position | Not being allowed to start |
| Leading an exercise for part of practice | Sitting out during practice until ready to respond properly, for a specific number of minutes, or for the rest of practice |
| Praise from you in team meetings, to the media, to parents, or directly to the individual | Dismissed from drills for half of a practice, for the next practice, for the next week, or for the rest of the season |
| Decals, medals, or certificates | Informing parents about misbehavior |

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