

Understanding Legal Duties: Are High School Athletic Directors Properly Prepared?

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The legal duties of high school athletic directors are an under-researched area of sport law. Millions of dollars are paid out annually due to the negligence of high school athletic program administrators, justifying a deep dive into further understanding high school athletic director legal awareness. Utilizing research related to an established 14 legal duties for high school athletics, the authors created a survey to contribute to the limited existing research related to high school athletic director legal awareness.

The survey went to a geographically balanced sample of states and the athletic directors within these states. A total of 349 responses were captured. A Rasch analysis identified the most challenging duties for high school athletic directors to manage were areas such as keeping practice plans on file and advising students of warning labels on equipment. Areas that high school athletic directors were better equipped to manage were transportation of students to practice and competition and ensuring equipment meets industry standards.

Multiple regression analysis revealed that smaller schools are most challenged in legal duty awareness due to limited resources (e.g., financial and personnel). Research should continue to build in this area by evaluating other variables that may affect the ability to comply and explanations for the level of awareness of directors.

Keywords: interscholastic sport, athletic directors, legal duties, survey methods, regression analysis

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Bios continued



Introduction

Director of high school athletics is a relatively young profession. The National Council of Secondary Athletic Directors, now known as the National Interscholastic Athletic Directors Association, was formed in 1969 (Schneider & Stier, 2001) and Keller and Forsythe (1984, as cited in Schneider & Stier, 2001, p. 212) point out that it was not until the 1970s that the position of an interscholastic athletic director began to grow into its now professional status. Schneider and Stier (2001) state that it is “almost universally recognized that it is very important to have as an athletic director an individual who is an expert in the administration of sports programs” (p. 214). One of the primary reasons for this is the way secondary athletics has grown since its inception in the 19th century (Schneider & Stier, 2001). Today, high school athletics is comprised of nearly eight million student-athletes (National Federation of State High School Associations [NFHS], 2018), and the lessons they learn through sports shape them into stronger, more resilient adults (Amaro, 2020).

One of the core areas of competency for high school athletic directors, as recognized by the majority (61.8%) of a national sample of high school principals, is legal aspects in sport (Schneider & Stier, 2001). The importance of legal awareness and effective training for high school athletic directors becomes apparent when considering the risks that accompany secondary athletics. A survey conducted by the National Athletic Trainer’s Association (NATA) reported that 90% of student-athletes experienced some sort of sports-related injury during their high school athletic careers (NATA, 2021b). While this can be as mild as a sprained ankle, it can be much more serious, even fatal. Between 2008 and 2015, more than 300 sports-related deaths of young athletes occurred in the United States (NATA, 2021a).

Risk in high school athletics extends beyond physical injury; as our society evolves, so too do the regulations that accompany this growth (Burnett, 2020). Current legal issues in high school athletics extend well beyond injury and liability issues and now include, but are not limited to, social media liability questions, hazing, and

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sexual harassment (*A.B. v. Rhinebeck Central School District*, 2004; Burnett, 2020; *Doe v. Hamilton County Board of Education*, 2018; Johnson, 2023). Lawsuits related to high school athletics in the United States resulted in judgments and settlements totaling more than \$40 million in 2018 alone (Green, 2019). In trying to keep student-athletes safe and their schools clear of negligence, high school athletic directors face additional challenges due to the obscure standards for their legal responsibilities, which vary from state to state. All too often, the more pressing daily tasks of running an athletic department take precedence over the planning and execution of the myriad details that protect the school from liability. Many athletic directors have a limited understanding of their legal responsibilities until it is too late, and they are left staring into the face of potential multi-million dollar litigation.

In an effort to clarify the legal responsibilities of high school athletic directors, Doleschal (2006) codified a list of 14 legal duties. This list was taken from the study of case law or “law that is derived from the decisions issued by judges in the cases before them in court” and is useful in clarifying the practical application of the law (Mitchell, 2016, para 1). Doleschal (2006) said, “These duties should be viewed as obligations to be met or exceeded by the school and all athletic personnel” (p. 295). The article describing the 14 legal duties was written in terms that would be clear and easily understood by athletic administrators who might not possess extensive legal training. Doleschal’s (2006) list of 14 continues to be the most up-to-date and concise standard for the legal duties of high school athletic directors.

Research on the legal practices of high school athletic directors has taken two general paths, the earliest of which was the study of risk management. “Basically speaking, risk management (in high school athletics) is the administrative effort to reduce injuries and minimize liability through prevention and safety planning” (NCHSAA, 2021). Studies were undertaken in the 1990s and early 2000s (c.f. Aaron, 2004; Bezdicek, 2009; Gray, 1995) to assess risk management practices in high school athletics across several states.

In the late 2000s, the focus of research shifted to emergency preparedness after it was discovered that many of the leading causes of death in young athletes (e.g., sudden cardiac arrest, traumatic head injuries, external heat stroke) are preventable with effective emergency action plans and proper equipment (e.g., automated external defibrillator or AED; National Center for Catastrophic Sport Injury Research, 2017, as cited in Adams et al., 2017). This emphasis on emergency preparedness (c.f., Adams et al., 2018; Johnson et al., 2017; Mcleod & Cardenas, 2019; Scarneo-Miller et al., 2020) has played a key role in decreasing student-athlete fatalities from sudden cardiac arrest, traumatic brain injuries, and heat-related illness (Raukar & Cardenas, 2020). However, the research undertaken at both national and local levels has found a lack of standardization of legal duties among states as well as room for an improved



standard of care being provided to student-athletes. Additionally, the underlying issue of articulating an athletic director's legal duties clearly and concisely still exists.

Doleschal's list of 14 duties is the closest thing that exists to a legal standard for high school athletic directors. It also represents the gap in the literature. Aspects of Doleschal's list of 14 have been included in previous studies on risk management and emergency preparedness. However, Doleschal's list extends to other areas in which athletic departments leave schools vulnerable to legal action. Of his standard, Doleschal (2006) says:

While the task of meeting the '14 Duties of Care' may initially seem overwhelming, strict adherence to these duties can be a tremendous benefit for any school district in conducting a safe athletics program for students that is firmly grounded in risk management principles. (p. 331)

The primary question this research sought to answer is this: *To what extent do high school athletic directors perceive they are able to comply with their 14 legal duties as articulated by Doleschal (2006)?* Our secondary question asked: *What individual and institutional factors are related to their perceived ability to comply?* The goal of this study is to shed light on the importance of legal training for high school athletic directors in the United States. It also sought to contribute to the increasing establishment of quality legal training for high school athletic directors that is widely accessible.

Literature Review

As previously stated, research surrounding the legal responsibilities of high school athletic directors has generally occurred in two waves, the first being risk management (c.f. Aaron, 2004; Bezdicek, 2009; Gray, 1995) and the second being emergency preparedness (c.f. Adams et al., 2018; Johnson et al., 2017; Mcleod & Cardenas, 2019; Scarneo et al., 2019; Scarneo-Miller et al., 2020). This body of work highlights the importance of a legal standard for high school athletic directors that was provided by Doleschal in 2006. This standard set by Doleschal (2006) has received limited attention in research, given the more urgent issue of preventing death in high school athletics. While emergency preparedness has been vital and effective in saving lives, the need remains for further study into the knowledge high school athletic directors possess about their legal duties as codified by Doleschal (2006).

Risk Management in High School Athletic Departments

The early wave of literature associated with an athletic director's legal duties was focused on risk management. Berlonghi (1990) describes risk management as "the process of making and carrying out decisions that minimize the adverse effects of



potential losses of an event” (p. 76). One of the first studies on risk management was motivated by two court cases. First, in *Larsen v. Independent School District No. 314* (1937), a Minnesota court found a high school principal negligent in his duty to provide reasonable care in supervising and implementing a curriculum, which resulted in severe injuries to a student in a physical education class (Gray, 1995). A second case, this time from a Michigan court, *Vargo v. Svitchan* (1980), found the principal negligent in his duty to provide reasonable supervisory duties in athletics to minimize injuries to student-athletes (Gray, 1995). As a result, Gray (1995) attempted to “determine the degree to which high school principals indicated that they performed various risk management behaviors related to supervision of their physical education and athletic program” (p. 54).

Gray’s (1995) study invited all 445 high school principals in the state of Iowa to participate. Of this population, 201 principals responded through the completion of an anonymous survey. The survey contained 40 questions, 20 of which addressed the principal’s risk management behaviors in the supervision of high school physical education programs (Gray, 1995). The remaining 20 questions examined the principal’s risk management behaviors in their high school athletic programs (Gray, 1995). While the secondary principals in this study were found to mostly be performing the risk management practices addressed in the survey, one of the shortcomings was that the principal’s responses were self-reported (Gray, 1995). Had the principal’s risk management practices been assessed by other professionals in their schools (e.g., physical education teachers, athletic directors, coaches), the responses might have been different. Gray cited the need for further studies on risk management in other states as well as surveying athletic professionals in high schools beyond those in the role of principal.

Aaron (2004) completed a similar study on risk management behaviors in Florida high school athletic departments. The purpose of this study was to measure the degree to which Florida high school athletic directors used risk management practices in their athletic programs and to determine the impact that selected demographic factors (e.g., undergraduate degree, years of experience, level of education) had on risk management practices (Aaron, 2004). To gather data, Aaron (2004) used the risk assessment tool developed by Gray (1991) and used in the Iowa study. This survey was mailed to all 681 Florida high school athletic directors, of which 201 chose to participate. Overall, Florida high school athletic directors indicated they were consistent in performing the risk management behaviors assessed by the survey (Aaron, 2004). However, those individuals with the dual roles of coach, teacher, or administrator and athletic director were found to score consistently lower on risk management practices than their colleagues who worked exclusively as athletic directors (Aaron, 2004). Further research was suggested for the risk management practices in other states as well as an in-depth look at how burnout and other barriers affect risk management practices (Aaron, 2004).



Bezdicek (2009) heeded the call for further research in other states and conducted a study of risk management practices of high school athletic directors in Minnesota. The goal of the study was to “determine to what extent high school athletic directors develop, implement, and manage risk management plans for their athletic departments, and to what extent athletic directors were familiar with risk management standards” (Bezdicek, 2009, p. 3). It was discovered that of the 463 study participants, the majority (56%) of high school athletic directors did not have a risk management plan for three primary reasons: (1) they did not have the time to develop and implement the plan (26.3%); (2) they lacked the expertise to create a plan (20.8%); and (3) they did not recognize the need for a plan (19.7%) (Bezdicek, 2009). Furthermore, the study found that among the athletic directors surveyed, there was a pervasive lack of familiarity with risk management standards (Bezdicek, 2009). A need for further research was noted to explore risk management practices throughout the rest of the country (Bezdicek, 2009).

Emergency Preparedness in High School Athletic Departments

In the early 2000s, there was a shift in the literature from risk management to emergency preparedness in high school athletics as the result of two catastrophic incidents in youth sport. In 2006, Zackery Lystedt, a 13-year-old football player, sustained a concussion during a game in which he continued to play (Foreman, 2010). This resulted in a brain hemorrhage and Lystedt having to relearn how to walk and talk (Foreman, 2010). Then, in 2008, a Kentucky high school football player named Max Gilpin died from heat exhaustion (Moore, 2019). In the aftermath of these events, it was found that 90% of all sudden deaths during sport participation are accounted for by four conditions: sudden cardiac arrest, traumatic head injuries, external heat stroke, and exertional sickling (National Center for Catastrophic Sport Injury Research, 2017, as cited in Adams et al., 2017). Upon the establishment of the leading causes of death, legislation was enacted, and the governing bodies of several national sport organizations published statements on best practices and safety guidelines that, if implemented, would help mitigate catastrophic loss in youth athletics (ACSM, 2021; AMSSM, 2015; NATA, 2020; NFHS, 2016).

In the wake of legislation and best practice statements, several studies examined emergency preparedness at the national level. Adams et al. (2018) assessed best-practice health and safety policies relating to the leading causes of sudden death and concussion management for high school athletics across all 50 states and the District of Columbia. Information was gleaned from state high school athletic associations’ websites, state departments of education, and enacted legislation. It was found that for any one policy, just a few states met the minimum best practice guidelines (Adams et al., 2018).



Scarneo-Miller's (2020) team of researchers found this absence of implementation troubling, given that emergency action plans (EAPs) improve response time to provide care for catastrophic injuries sustained during sport as well as the low cost to implement them. To ascertain barriers to, facilitators of, and social determinants influencing the implementation of EAPs in athletic departments of secondary schools nationwide, Scarneo-Miller et al. (2020) collected data from a national sample of athletic directors and athletic trainers. Perceived barriers to implementation were a lack of knowledge about how to implement EAPs as well as financial limitations (Scarneo-Miller et al., 2020). Furthermore, facilitators of EAPs stated that limited access to healthcare professionals, limited support from administrators, not knowing how other schools implement EAPs, and a lack of mandates from state secondary schools' athletics associations and state laws made implementing EAPs difficult (Scarneo-Miller et al., 2020).

On a local level, sports-related emergency preparedness was studied in both Oregon and Arizona. Johnson et al. (2017) used a three-pronged test to assess emergency preparedness in Oregon high school athletic departments based on the previously mentioned best practice health recommendations from several national health organizations: (a) a detailed EAP ready, (b) life-saving equipment—specifically an AED—available, and (c) coaches trained in CPR and AED use. Athletic directors responded to an online survey that found that most Oregon high schools were not prepared for sports-related emergencies; under 10% surveyed implemented all three best practice recommendations and 30% implemented none (Johnson et al., 2017).

Athletic directors surveyed in Arizona high schools by McLeod and Cardenas (2019) were found to be better prepared. Their study assessed emergency preparedness by evaluating EAPs and policies relating to cardiac arrest, concussion, and heat illness. McLeod and Cardenas (2019) found that most Arizona high schools had access to athletic trainers and, as a result, were more likely to have policies, procedures, and equipment to prepare for sports-related injuries. In examining Arizona concussion laws, it was also found that mandates through laws and policies have a positive impact on school-based adoption of emergency preparedness measures (McLeod & Cardenas, 2019). Areas with room for improvement were the implementation of venue-specific EAPs and regular review and practice of EAPs (McLeod & Cardenas, 2019).

The studies on both risk management and emergency preparedness across the country highlight the importance of continued research on the legal duties of high school athletic directors. While some athletic administrators surveyed are mostly practicing risk management behaviors, the studies completed in Iowa (Gray, 1995), Florida (Aaron, 2004), and Minnesota (Bezdicek, 2009) demonstrate that the lack of a national standard leaves each state to determine how it supports and enforces the legal responsibilities of high school athletic directors. As a result, there is a pervasive



lack of familiarity with risk management standards (Bezdicek, 2009). Furthermore, there has yet to be widespread implementation of best practices for emergency preparedness (Adams et al., 2018). Herein lies the importance of Doleschal's standard and the accompanying research performed by this current study. To protect high school student-athletes and mitigate risk for high school athletic departments, athletic directors need to understand their legal duties regarding the standard of care they provide to their student-athletes.

Doleschal's 14 Legal Duties

Since a national standard for the legal duties of high school athletic directors has yet to be clarified, these duties emerge from case law regarding high school athletics. Every time a court case is decided, and a school or athletic director is found negligent, the legal duties of high school athletic directors are further clarified. Several authors have examined court cases involving lawsuits where interscholastic athletic administrators were deemed to be negligent and have established that athletic directors and coaches owe student-athletes certain duties of care (cf., Conn, 1990; Karns, 1986; Mirsafian, 2016; Mohamadinejad, 2014; Quandt, Mitten, & Black, 2009). Figone (1989) was the first to codify case law trends by creating a list of seven duties of care owed by coaches to student-athletes. In 1990, Conn expanded Figone's list to 12 and in 2006, Doleschal identified 14 legal duties that athletic directors owe to their student-athletes.

Doleschal's list of 14 stands today as the most up-to-date and concise standard for the legal duties of high school athletic directors. In the article describing the 14 duties, Doleschal (2006) established the importance of this standard by saying:

Because athletics has so many areas that can expose a coach and a school to litigation, it is important that all coaches, athletic administrators, and school administrators understand the need to manage the risks that are inherent in athletics, understand the steps that should be taken to minimize those risks, and understand that the law demands that coaches and schools act 'reasonably.' (p. 297)

While it is impossible to avoid lawsuits altogether, incorporating these 14 responsibilities into their risk management plans will help schools minimize their liability and that of their athletic directors and coaches. Doleschal's (2006) 14 duties are listed in Table 1.

The current study sought to assess the depth of understanding possessed by high school athletic directors about their legal duties using Doleschal's list of 14 as the standard of measurement. The research sample is a geographically balanced but otherwise random assortment of high school athletic directors from across the United States. This research will contribute to the existing literature between risk



Table 1. Doleschal's (2006) 14 Legal Duties for High School Athletic Directors

1.	Duty to plan
2.	Duty to supervise
3.	Duty to assess an athlete's physical readiness and academic eligibility for practice and competition
4.	Duty to maintain safe playing conditions
5.	Duty to provide proper equipment
6.	Duty to instruct properly
7.	Duty to match athletes
8.	Duty to warn
9.	Duty to provide and supervise proper physical conditioning
10.	Duty to ensure that athletes are covered by injury insurance
11.	Duty to develop an emergency response plan
12.	Duty to provide proper emergency care
13.	Duty to provide safe transportation
14.	Duty to select, train, and supervise coaches

management and emergency preparedness studies by focusing on legal duties articulated by Doleschal through case law surrounding high school athletics. By assessing high school athletic directors' knowledge of Doleschal's 14 legal duties, this research will shed light on the importance of a legal standard for high school athletic directors. The benefits of this are numerous. First, the understanding possessed by high school athletic directors of their legal duties will be assessed. Second, from this information, recommendations for better standards of care can be made. Next, this research can serve as a foundation for improved legal training for high school athletic directors. Finally, while this study is limited in depth due to its broad scope, it can provide the basis for further studies on the legal duties of high school athletic directors in more specific settings (e.g., state by state or school district by school district).

Methods

The primary purpose of this study was to examine the extent to which high school athletic directors perceive they can comply with Doleschal's (2006) 14 duties of care. A secondary question was which personal and institutional variables were



related to the ability to comply. To answer these questions, we employed a non-experimental research design, specifically a combination of survey and correlational design (Asenahabi, 2019). Sport management researchers rely heavily on survey methodology, in part because it can provide easier access to large samples and “allow researchers to gain desired information about a characteristic, attitude, or behavior within a selected sample or population” (Andrew et al., 2011, p. 80). Here, we sought to access a relatively large, nationally representative sample of high school athletic directors, specifically to gather information regarding their perceptions of their ability to comply with their legal duties.

Other survey studies in the area of risk management in sport have also employed a similar non-experimental correlational design. For example, Judge et al. (2010) examined colleges and universities’ level of compliance with National Collegiate Athletic Association (NCAA) and International Association of Athletics Federations (IAAF) hammer throw facility recommendations. Surveying coaches, the authors found initially that approximately 78% of facilities followed NCAA standards, but only 38% were in compliance with IAAF recommendations. They then conducted a multiple regression analysis to determine that NCAA compliance, IAAF compliance, and years of coaching experience were all statistically significantly related to the hammer throw coaches’ perceived safety risks (Judge et al., 2010).

More recently, Watson et al. (2023) investigated the association between face mask usage and incidence of COVID-19 in high school athletes. The researchers surveyed interscholastic athletic directors throughout the United States regarding COVID-19 cases across their sports programs, number of athletes, number of practices and competition, and which sports required their athletes to wear face masks. Using a Poisson regression model with the number of reported cases as the dependent variable, they reported that, overall, face mask use did not significantly relate to the number of cases. However, use of a mask was significantly associated with lower case counts in indoor sports and noncontact sports (Watson et al., 2023). Both Judge et al. (2010) and Watson et al. (2023) investigated similar research questions to those in the current study, providing support for the use of non-experimental correlational design using survey collection methods.

Participants

Survey participants included high school athletic directors from nine different states, with efforts made to create a diverse national sample. The National Center for Education Statistics (NCES, 2021) identifies eight geographic regions for purposes of analyzing education data: New England, Mid East, Great Lakes, Plains, Southeast, Southwest, Rocky Mountains, and Far West. To help ensure a representative sample, we randomly selected one state from each region, plus one additional random state from all that remained, for a total of nine states. Using each state’s Department of



Education website and the NFHS database, we gathered all available email contacts for high school athletic directors in the nine states. We sent 2,032 initial emails, 1,772 of which were delivered. We received a total of 349 usable responses for an approximate response rate of 19.7%.

Instrument

The initial survey instrument developed for the current research was sent to multiple legal professionals from around the country for professional commentary to enhance the survey. Next, the survey was piloted with the athletic directors from one state not used in the official results of this research. The results and comments from athletic directors from the pilot study were used to further enhance the survey.

The official survey instrument also included several items related to the participants' individual demographics and relevant characteristics of their schools. Participants reported their gender, age, race, highest degree earned, sport-related degrees, years of coaching experience, years of athletic director experience, highest level of playing experience, first-aid/CPR certification, and current position. They also reported their school's enrollment and athletic classification (e.g., 1A, 2A, etc.).

To address the primary research question, we developed 40 dichotomous items from Doleschal's (2006) 14 duties of care, with about 2-4 items per duty. For example, for the duty to plan, items included questions such as "Has a medical emergency plan been developed and reviewed by the athletic director in the last 12 months," among others. For the duty to provide proper equipment, one question they answered was, "Does equipment meet industry standards at the beginning of each athletic season?" Respondents answered either "yes" or "no" to whether their school met each item. Finally, in an effort to get to the heart of the issues athletic directors face, qualitative questions were asked after nine of the duty questions to see if the respondents had any additional germane information. These results were compiled and reviewed in aggregate.

Data Analysis

Rasch Analysis

First, we used Rasch analysis (Boone et al., 2014) to develop a usable index from the 40 duty of care items. According to Wright (1997, p. 37), Rasch analysis is the only method to create "an objective, sample-free, and test-free measurement model." Using the logit function, researchers can create continuous, linear composite measures from groups of dichotomous and/or ordinal items, which is an advantage over traditional methods such as summing or mean-scoring (Bond & Fox, 2015).

We evaluated model fit and diagnostics per the criteria outlined by Linacre (2021), which include person and item separation and reliability, as well as mean square residual summary statistics (MNSQ). Ideally, person and item separation



should be greater than 2.0 and person and item reliability greater than 0.7, and item outfit MNSQ values between 0.5 and 1.5 indicate a good fit (Linacre, 2021). After establishing adequate fit, we rescaled the Rasch logit scores to fall between 0 and 100 to ease interpretability. We also produced descriptive statistics and Wright maps, which plot person ability and item difficulty along the same axis, to determine whether the items covered the full spectrum of the participant's ability to comply (Boone et al., 2014). These Rasch analysis tools allowed us to examine the athletic directors' individual ability to comply, as well as the characteristics of the larger group. They also allowed us to determine which specific duties were easiest and most difficult for athletic directors to meet.

Multiple Regression Analysis

Next, we employed multiple regression analysis to determine which individual and school characteristics were affiliated with a director's ability to comply. The dependent variable in the model was the Rasch compliance score. Independent variables were the director's age, gender, race/ethnicity, coaching experience, athletic director experience, tenure at their current school, full- or part-time athletic director status, the highest level of playing experience, CPR certification, highest degree earned, and whether they had a sports-related degree. We also included the school's enrollment (divided by 100 to ease interpretability) as an institutional independent variable.

Results

Sample Descriptive Statistics

The sample of athletic directors was overwhelmingly White (87.7%) and male (86.0%). Approximately 75.1% had graduate degrees, 58.2% were former college athletes, and 7.7% were former professional athletes. The mean age of the group was 48.1, and they averaged 15.5 years of coaching experience, 11.1 years of athletic director experience, and 9.6 years working at their current schools. The mean enrollment was 756.6 with a standard deviation of 682.7, suggesting a great deal of variability in the size of the schools where the respondents worked.

Rasch Analysis

Person separation (1.44) and reliability (0.68) were both slightly below the benchmarks set by Linacre (2021). However, item separation (4.39) and reliability (0.95) were well above these thresholds, and person and item MNSQ outfit values were 1.02 and 1.05, respectively, suggesting the data was a good fit for the Rasch model.

The mean scaled Rasch score for the athletic directors' ability to comply with their duties was 71.6, while the mean scaled score for item difficulty was 49.1. This indicates that the items were potentially too *easy* for the respondents to endorse and



produced a possible ceiling effect in measuring person ability. This effect is visible in Figure 1, which portrays the Wright Map for the data. Person ability is mapped on the left side of the dividing line, while item difficulty is mapped on the right. Each hashtag on the left represents four respondents, and each period represents one to three. As we can see from the figure, a sizable percentage of the athletic directors surveyed scored in the 65-90 range, while only three duties fell in this range of difficulty. As a practical matter, in reference to research question one, high school athletic directors appear to perceive their ability to comply with their legal duties as generally high.

The three most difficult duties for the participants to meet were the duty to keep practice plans on file (82.7), duty to have written plans for all practices (75.1), and duty to advise student-athletes to read warning labels (66.8). The easiest duties were the duty to ensure all drivers transporting students are properly licensed (22.3), duty to ensure equipment meets industry standards (25.9), duty to ensure equipment is properly fitted (29.4), and duty to have a coach supervise strength and conditioning drills (30.9).

Multiple Regression Analysis

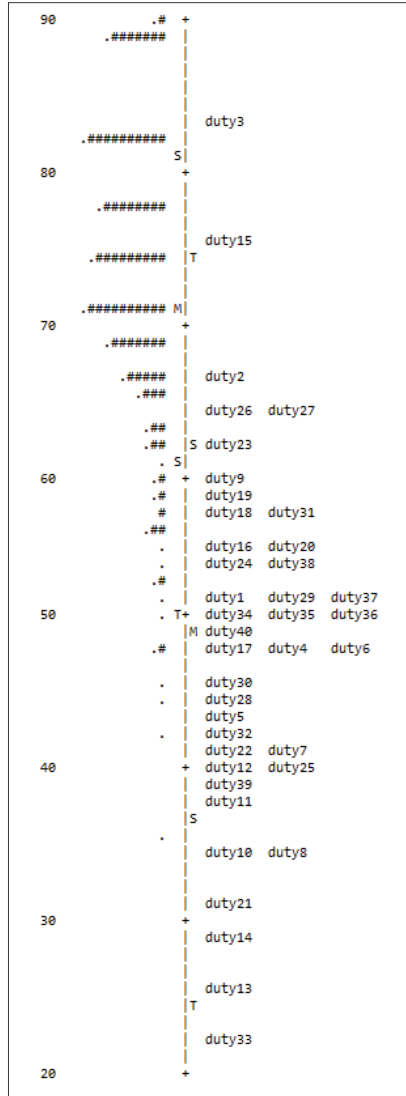
Table 2 displays the results of the multiple regression analysis. The only statistically significant predictor of the athletic directors' ability to comply with their legal duties of care was school enrollment ($B = 0.18$, $\beta = 0.11$, $p = .041$). For every 100 additional

Table 2. Results of Multiple Regression Analysis

Variable	<i>B</i>	β	<i>p</i>
Age	0.01	0.01	.898
Female	-1.82	-0.06	.328
Non-White	0.20	0.01	.918
Coaching Experience	-0.09	-0.05	.425
Athletic Director Experience	-0.04	-0.03	.721
School Tenure	0.14	0.09	.210
Sport-Related Degree	-1.11	-0.05	.393
Graduate Degree	-1.62	-0.07	.278
College Athlete	0.67	0.03	.617
Professional Athlete	-1.13	-0.03	.634
Enrollment/100	0.18*	0.11	.041

* $p < 0.05$





Note. Person ability is mapped on the left side of the dividing line, while item difficulty is mapped on the right. Each hashtag on the left represents four respondents, and each period represents one to three.

Figure 1. Wright Map

students enrolled in a school, the athletic directors' ability to comply is expected to increase by 0.18 points on the 100-point Rasch scale. The R^2 value for the regression model was 0.037, indicating that the model explained just 3.7% of the variance in the outcome.



Discussion

High school athletic directors (ADs) are expected to be experts in the administration of sports programs (Schneider & Stier, 2001). With nearly eight million students competing in high school sports each year (NFHS, 2018), many concerns must be addressed to ensure they are properly supervised, instructed, and protected from harm, and this is a core responsibility of ADs. Injuries are inevitable in sport, so interscholastic ADs need to prioritize risk management and emergency procedures, two concepts that are interwoven with each other, which provide the foundation for the fiduciary duty of schools to keep student-athletes safe.

Under the doctrine of *in loco parentis*, administrators of interscholastic athletics owe a “sacred” duty to exercise care to protect their students (Missisrian, 2017, p. 168; *Morse v. Frederick*, 2007, p. 414). While multiple authors have considered the nature and application of these duties in a variety of contexts (c.f., Aaron, 2004; Berlonghi, 1990; Bezdicek, 2009; Conn, 1990; Figone, 1989; Gray, 1995; McLeod & Cardenas, 2019; Scarneo-Miller et al., 2020), national standards have proven elusive, and the understanding of risk management and emergency preparedness is still often lost in the ether. The current study attempted to break down Doleschal’s (2006) duties and evaluate and rank these duties by difficulty to propose potential adjustments to current practices and better address the shortcomings and gaps in procedural safeguards and oversight.

One of the most useful tools in Rasch analysis is the ability to map and rank items according to their difficulty (Bond & Fox, 2015; Boone et al., 2014). In this case, we were able to identify several of the most difficult duties for ADs to meet—the duty to keep practice plans on file, duty to advise student-athletes to read equipment warning labels, and duty to have written practice plans for all practices. In addition, we were able to identify those that were easiest to meet—the duty to ensure all drivers transporting students are properly licensed, duty to ensure equipment meets industry standards, duty to ensure equipment is properly fitted, and duty to have a coach supervise strength and conditioning drills. This is a unique feature of Rasch analysis that is not available in traditional factor analytic approaches to scale development and validation, and can be used to aid scholars and practitioners in focusing on which duties they should direct their attention to. These findings show how uniquely susceptible smaller schools are to these types of problems because there may not be time or resources available to allocate toward the promulgation and adoption of safeguards and practices or to further delineate existing standards and procedures through documentation. As it is expensive to produce quality risk management documents, smaller schools may want to consider partnering with other similar schools to exchange forms and procedures, or otherwise develop forms collaboratively (and maybe even share the legal fees with other schools to defray costs). Additionally, smaller school districts could band together to share the cost of



a full-time administrator to ensure consistent and ongoing oversight of risk management and other legal concerns. Small schools should also consider allowing officials from other schools to evaluate their risk management procedures and provide recommendations. Finally, the true goal should be to delineate standards of practice and set agreed upon benchmarks and guideposts. The NFHS has standards, but their application and authority are not where they could be. Establishing procedures independent of each other is necessary, and while the NFHS does train athletic department personnel, there is still inconsistency with the plans in place (NFHS, n.d.).

The duties related to emergency planning are often overlooked, not practiced or rehearsed, and sometimes are entirely non-existent (Scarneo et al., 2019). This lapse makes an already dangerous environment exponentially more hazardous, where injuries are more likely to happen and more likely to be severe in nature. When resources are scarce and individuals are stretched thin managing multiple responsibilities, peripheral tasks can be overlooked. However, the need for a safe environment and a unanimously understood procedure for resolving safety issues are fundamental to ensuring the safety of everyone involved in sports-related activities, spectators and participants alike. The good news is that, while creating policies and procedures in this realm can be time consuming to conceptualize and implement, these are manageable fixes and the data from this study shows that coaches and administrators are often successful in ensuring practices and strength and conditioning sessions are properly staffed, which are both complicated facets of risk management plans. Thus, there are individuals who are likely to be in place at the most critical moments that can ensure compliance and responsiveness. However, the degree of training that staff receives varies greatly, and schools with fewer resources face more barriers to execution due to the lack of resources and employees. Creating practice plans, as well as thoroughly defining emergency procedures, should help sport administrators to ensure issue recognition regarding safe premises and behaviors, as well as a safe environment where medical help can quickly be received. As case law has shown, critical facets of emergency responsiveness have been repeatedly overlooked, and nothing can be viewed as more important than expeditious and accurate safety response measures, as schools must anticipate foreseeable injuries, hire competent staff to respond to emergencies, and properly prepare for them, this duty of care is of the utmost importance (*Kleinknecht v. Gettysburg College*, 1992; *Feleccia v. Lackawanna*, 2017).

While it would seem the duty to plan and create practice plans is agreed upon among athletic directors, the qualitative responses provided some interesting anecdotal evidence. One respondent indicated they felt that creating practice plans would be a 'waste of time' with some athletic directors stating this is a coach's responsibility and that they would not require a plan to be submitted or kept on file. In several responses, athletic directors indicated their school does not even require practice



plans. Additionally, there were multiple responses that indicated practice plans were not established or kept on file. Without these standards, a hands-off mindset could emerge, and in some situations has already been created. This was evidenced by one response, which stated, “Coaches should not be micromanaged, I encourage written practice plans but I would not require them to submit to me.” While any manager or employee can appreciate the need to not micromanage, the fact that this duty is viewed so casually indicates that this requirement should be mandated. The variety of responses to duty to plan questions helps galvanize the results of the study and further corroborates the critical importance of identifying what kind of risk management planning should be required and the establishment of consistent standards so that schools can more easily comply.

Effective emergency planning, and by extension detailed practice plans and defined procedures for foreseeable risks, reduce the amount of time it takes to identify what medical services are required and to get responders to the location of the incident (Scarneo et al., 2019, p. 103). While administrators, specifically those at smaller schools where resources are limited, may find the process of creating emergency planning (and by extension practice plans) daunting, once they are adopted, rehearsal and planning has been definitively proven to reduce catastrophic injury and death (Broomfield, 1996; Scarneo et al., 2019). Regularly practicing emergency planning and rehearsing roles and responsibilities helps address the problems of “decay of knowledge” and “increase response time” (Scarneo et al., 2019, p. 103). Schools routinely engage in emergency planning on a regular basis, like fire drills and school evacuations, so the infrastructure is in place in most contexts to implement more routinized drills and rehearsals in sport situations (Boyle, 2012). Furthermore, a failure to incorporate these procedures would be pertinent evidence to show an institution failed to meet their duty of care.

In the comments related to emergency response planning, athletic directors repeatedly mentioned a need to review and update. Three interesting comments emerged on this question stating, “We don’t get that many spectators!” “We almost never get to capacity,” and “Our spectator crowd is much lower than capacity, so we do not check it.” Given the troubling recent uptick in violence on school grounds and issues with active shooters, as well as the partisan and enthusiastic nature of high school athletics, these comments are particularly troubling. A mindset that issues can only arise when an event reaches capacity, or that an event with few people attending is inherently safe, is a dangerous oversimplification. This is yet further evidence that there are at least some athletic directors who are not actively creating emergency and crisis response plans. Mandating the creation and preservation of these kinds of plans is imperative.

As has been detailed repeatedly, the data from this study suggests that a primary concern is the creation and implementation of these plans and understanding



the interconnectedness of the different planning that needs to be done. Moreover, the importance of rehearsing and preparing cannot be undersold (Scarneo et al., 2019). This is compelling evidence to support the need for uniform benchmarks for emergency planning and practice plans, and more established standards of practice would help avoid the ambiguity that allows many organizations to overlook aspects of emergency planning like practice plans. Athletic directors mentioned consistently that they are trying to plan and rehearse in preparation for a litany of issues, but multiple respondents mentioned they wanted to know more about potential safety clinics. Many also said coaches are required to take a variety of classes and have various certifications, but responses included statements like “there is simply not enough time to do these things,” “we don’t micromanage,” and “...ADs are not all Admin and have other jobs the district thinks are more important.” While the safety of students is always of paramount importance, the connection between emergency and crisis planning and that fundamental tenet seems to be getting lost in the shuffle more often than it should.

Similar to the discussion on emergency planning—and its general application to practice plans to ensure student-athlete safety—implementing procedures to ensure that warning labels are read and understood by the student-athletes, and documenting the actual completion of these tasks, is a relatively straightforward process that should be incorporated into the procedure of ensuring equipment fits and is suitable for a student-athlete’s purpose, as the latter is something the data showed schools had an easier time addressing. Smaller schools would certainly benefit from starting each sport season with a checklist of concerns, including equipment checks, emergency planning, and risk management. Boxes should not merely be checked, but instead, there should be a process to ensure understanding and awareness. Having a stand-alone assumption of risk type document that is acknowledged via signature and date by a player and guardian would be valuable evidence to present to a court that the athlete was apprised of the need for fully functioning equipment and the risks related to using improper pads, helmets, and other equipment. Additional waivers and disclaimers explaining the inherent risks of an activity would also be especially useful in court to show that a participant was aware of the risks of the activity. By extension, requiring students to review these forms should raise their awareness of what the risks of participation are, what equipment is designed to protect against, and how it should be used, which intuitively should lead to fewer injuries. Given the finding of this study that ensuring students have read safety labels is a more arduous task, this straightforward adjustment should be cost effective and require only minimal additional work for coaches and ADs.

While the Rasch analysis provided some interesting issues regarding what needs more attention, it also demonstrated that the size of the school was important in showing compliance. School size was the only statistically significant variable the



model explained ($\beta = 0.176, p = 0.041$). For every 100 additional students enrolled in a school, the level of compliance was predicted to increase by 0.176 points on the 100-point Rasch scale. This is a telling finding that demonstrates the importance of resources, inexorably linked to school size, in risk management and emergency preparedness. If a smaller school is lacking ways to ensure compliance and demonstrate adherence, it should immediately investigate more thorough forms to establish procedures and build paperwork that can be used in court to show reasonable and prudent decision-making.

Through the lens of today, resource inequality is something that must be closely considered, especially when student safety is involved. The current study looked at all types and sizes of schools, and the degree of understanding and compliance shown by larger schools shows another inequity arising from resource disparity. This is something that is difficult, if not impossible, to cure for most schools, especially those with less socioeconomic means. Schools with smaller enrollment, especially in the public realm, have fewer financial and human resources to ensure compliance with basic duties of care. Two key issues regarding student-athlete safety are proper oversight and the retention of qualified employees. These components require significant financial and human resources to meet Doleschal's (2006) duties of care. By focusing on Doleschal's (2006) duties in the hiring process and asking pointed and direct questions about emergency planning, implementation, and documentation, schools with fewer resources can identify applicants who have a keen eye for these issues. While many other qualities should be considered when hiring ADs and other athletic support staff, a focal point should be on risk management and emergency procedures. This is not a perfect solution, but the hiring of individuals with purposeful experience in these realms can help schools articulate their emergency plans, practice plans, and risk management procedures. The results of this study, particularly those relating to resource scarcity, make it abundantly clear that having the right leadership in place that prioritizes safety is of paramount importance. There are many more vital aspects of risk management and emergency preparedness that require a great deal of time and money, and few schools truly have the infrastructure and resources to meet these demands. This problem is not likely to go away for many schools, but in those situations where these issues are most salient, qualified and diligent leadership can help cure some of the oversights and exclusions that were shown through this analysis.

Participant and spectator safety are recognized hallmarks of any school activity. It is a complex process that can result in catastrophic loss if not properly designed, implemented, and managed. If something is overlooked and a student-athlete is injured, there are several layers of human suffering to that type of tragedy. First, the health and safety of the student-athlete have been impacted, perhaps irreparably, and that must be the top priority for any athletic administration professional.



Additionally, injuries can dissuade other participants as well as administrations from keeping policies, practices, and even teams in place, especially where finances are limited. Moreover, any injury may result in a lawsuit, something that is time consuming and costly for any school, and any restitution or settlement takes more resources away from institutions that need to spend every penny carefully to thrive. Third, on a more personal level, the amount of stress, anxiety, and concern an individual who is tasked with overseeing safety experiences can be intense. But this becomes even more impactful when we consider the long-term effects. Not only is the injured individual's life dramatically impacted, but the administrators and coaches are going to have to live with the grief and sadness that would naturally arise when anyone's actions, or inactions, resulted in someone else being hurt. The risks clearly outweigh the rewards.

While the aforementioned concerns are of paramount importance, many other issues are becoming more salient in modern times, especially given the potential for intense public scrutiny when something occurs that offends people's conscience. Social media issues, sexual harassment, and hazing are incidents that put schools under the microscope, and a well thought out and detailed education and awareness program as well as a response plan are similarly imperative. As administrators are fiduciaries responsible for the welfare of their students, how ugly, disturbing, or illegal occurrences are communicated to the public need scrutinizing. Administrators, including public relations professionals, would certainly benefit from continuing education centered on the response to hazing and harassment allegations. While sexual harassment law has evolved significantly and 44 states have passed anti-hazing laws, these issues still arise with relative frequency and are extremely caustic for the school's reputation (*States with Anti-Hazing Laws*, n.d.; *Doe v. Hamilton County*, 2018; Parks & DeLorenzo, 2019). High school athletic hazing, in particular, is born from a unique environment where acceptance of an individual to a team is often dictated by veteran players who lack the power to cut anyone from a team, but instead cajole participation in hazing through peer-pressure and a need many younger players have to feel that they belong (Parks & DeLorenzo, 2019). Due to the powerful influence of older students and the implied requirement of participation in hazing, education and awareness processes should be a part of team training that occurs prior to the start of team activities. As ignorance is never a defense for the law, providing training to coaches, staff, and players should help raise understanding, and the harsh civil and criminal penalties will likely scare off some potential transgressors. Small schools may be at a disadvantage at creating such educational programs due to resource scarcity, but again smaller schools in the same league or districts could pool resources to ensure hazing awareness is an embedded facet of compliance training and student education. This type of instruction, along with focused information sessions regarding responsible social media usage, would at least provide the school with



valuable documentation of their efforts to curtail these issues and hopefully would cause a change in perception among students. Schools must endeavor to undermine the notion that hazing is a rite of passage in specific, documented, and overt ways.

Sexual harassment and other forms of sexual misconduct are other hot button issues that would benefit from similar planned and documented educational programs for faculty, staff, coaches, and students. Clearer explanations regarding the severity of punishment for these types of transgressions would hopefully be a specific and general deterrent, as even administrators have been accused of this type of misconduct (*A.B. v. Rhinebeck Central School District*, 2004). Furthermore, documenting these mandates through information sessions and requiring the signing of waivers, assumption of risk, and other similar documents by students, their legal guardians, faculty, staff, and coaches should provide a stronger defense in the event any incident were to occur, while simultaneously raising awareness among all stakeholders and hopefully causing potential transgressors to reconsider the actions.

All told, given that school size was a statistically significant predictor of compliance with Doleschal's (2006) duties of care, and that resources are often scarcest in smaller schools, a primary recommendation based on this analysis centers on the careful creation, implementation, and practicing of emergency planning procedures, compliance training, and documentation. Moreover, carefully designed, written, and filed practice plans, waivers, assumption of risk forms, and other documentation that have given forethought to foreseeable injuries and improper actions will help those responsible to act quickly and decisively, ensure they are meeting the legal standards related to their duty of care, and provide evidence in the event a lawsuit does arise that a school has not acted negligently. Careful planning and documentation provide critical evidence in defense of a negligence action, or similar claim, against a school. Adopting these approaches, and making them benchmarks for success, should be mandated in some form or fashion and there should be consistency with these standards (whether that be at the county, state, or federal level). The lack of clarity and precise standards of practice have allowed some of these key features to be set aside to focus on what may be perceived as more pressing issues, but administrators that downgrade the importance of emergency planning are playing with fire, and the potential risks do not outweigh the rewards.

Limitations

Upon compiling the data and running the Rasch analysis, several key limitations became apparent. The first was the model and survey explained little of the variance in athletic directors, schools, and compliance with their legal duties of care. In fact, the model explained 3.7% of the variance in ability to comply, which is generally a poor result. Thus, other variables not discussed here may play a significant role in an athletic director's ability to comply with Doleschal's (2006) duties of care.



For example, financial resources—which may be influenced by the public/private distinction, level of public funding of athletics, ability to obtain sponsorships, and wealth of parents or boosters, among other factors—may play a significant role in whether a school is able to meet its responsibilities fully and adequately to student-athletes (Davis et al., 2014). Likewise, whether a school has its own dedicated athletic facilities or shares space with others, the existence of guidance or mandates from state high school athletics associations, and the number of sports or student-athletes could all be relevant factors.

Future Research

Miller (2013) surveyed high school ADs regarding their religious values and pregame prayer practices, but this study is believed to be the first of its kind to directly survey high school ADs on factors related to their awareness and ability to comply with their legal duties of care, and the results of this study suggest that further research is needed into factors related to this important topic. This study also represents the first known application of Rasch analysis in sport law research, and highlights how scaling and data analytics can be used in this area. While much legal and risk management research in sport is historical or comparative in nature (Dent, 2017), increased use of empirical, participant-focused methods (e.g., surveys, interviews) can add great value to our field of scholarship. Regarding future research in this area, the use of ordinal, Likert-type items could reveal greater variance in the dependent variable and might yield more fruitful results. Additional methods of sensitizing data should also be considered for future iterations of this research. Potentially expanding descriptive questions to ascertain more about the types of education and training ADs receive could be a worthwhile route to evaluate as 75.1% of respondents had graduate degrees and many ADs had experience coaching prior to their current role. Additionally, incorporating more mixed methods and re-evaluating the qualitative questions asked may also provide more specific guidance on how schools approach meeting these duties. Nevertheless, this work emphasizes that we need to develop a better understanding of how and why high school ADs are or are not able to meet the duties of care they owe to student-athletes.

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