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OHIO INTERSCHOLASTIC ATHLETIC
ADMINISTRATORS ASSOCIATION

STATE CONFERENCE

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THE ABCs OF CONDUCT UNBECOMING: Athletes, Boundaries and Coaches

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GOALS FOR TODAY

- To discuss the scope of the problem of boundary invasions and the persistence of these issues in interscholastic athletics involving relationships between coaches and student athletes;
- To address the emerging new standards of “conduct unbecoming” and its application to these issues – particularly as they relate to social media use;
- To dialogue about taking proactive steps to keep children safe;
- To consider preventive measures aimed at keeping your District out of the media (and off Facebook!); and
- To address strategies for managing the crisis if it hits.

THE DYNAMICS

- Simply stated, the bond between athlete and coach can be powerful.
- For a small and unscrupulous minority, coaching thus provides a unique opportunity for misconduct.
- Coaches work with athletes for hours at a time, often over several years, in unstructured settings such as locker rooms and out-of-town tournaments.
- Coaches tell their athletes how to train, what to eat, and even who to associate with, etc.

THE DYNAMICS

- Coaches are generally admired by kids and parents alike and (like priests/clergy) might be the last people suspected of abuse.
- However, as a profession, coaching has one of the highest rates of sexual misconduct complaints.
- A North Carolina study of schools found that the **No. 1 reason for the dismissal of a coach** (accounting for 1 in every 5 firings) was not a team's performance – but the coach's inappropriate relationship with a student.
- The Seattle Times Pulitzer Prize winning series entitled “Coaches Who Prey” disclosed that Washington teachers who coach are **three times more likely to be investigated for sexual misconduct** than non-coaching teachers.

THE DYNAMICS

- Add to this the fact that many athletes (and some parents) actually “look the other way” when misconduct occurs.
- For the love of the sport and the prospect of more playing time, student athletes will sometimes endure sexual innuendo, harassment and boundary invasions.
- Athletes generally trust their coaches – who are often celebrities in town – which can open up the door for misconduct.
- Looking the other way is not unique to athletes – the truth is that many administrators fear the consequences of “outing” a scandal – making themselves and their districts look bad and upsetting the community.

Employee Social Media Use and Recent Amendments to the Licensure Code of Professional Conduct (LCPCOE)

WHAT IS THE LCPCOE AND WHY DO WE CARE?

House Bill 190 (2008)

SECTION 9. Not later than three months after the effective date of this section, the Educator Standards Board established under section 3319.60 of the Revised Code shall recommend to the State Board of Education a code of conduct for educators. The code of conduct shall address persons who are licensed by the State Board and recommendations shall include both of the following:

(A) Descriptions of conduct that is inappropriate for educators;

(B) Disciplinary actions that should be taken against educators who engage in each type of misconduct, including the refusal, suspension, limiting, or revocation of a license under section 3319.31 of the Revised Code.

WHAT IS THE LCPCOE AND WHY DO WE CARE?

- “A guide for conduct in situations that have professional implications for all individuals credentialled by the State Board of Education, such as teachers, principals, superintendents, educational aides, **coaches**, substitute teachers, and others.”
- How do they relate to the matter at hand?
 1. **Educators behave in a professional manner, realizing that one's actions reflect directly on the status and substance of the profession.**

WHAT IS THE LCPCOE AND WHY DO WE CARE?

2. **Educators maintain a professional relationship with all students at all times, both in and out of the classroom.**
3. Educators accurately report information required by the local board of education or governing board, state education agency, federal agency or state or federal law.
4. **Educators adhere to federal, state and local laws and statutes regarding criminal activity.**
5. **Educators comply with state and federal laws related to maintaining confidential information.**

WHAT IS THE LCPCOE AND WHY DO WE CARE?

6. Educators serve as positive role models and do not use, possess or unlawfully distribute illegal or unauthorized drugs.
7. Educators ensure school property, public funds or fees paid by students or the community are used in the best interest of students and not for personal gain.
8. Educators fulfill all the terms and obligations in their employment contracts.

And, now, effective as of September, 2019, a ninth and new principle:

WHAT IS THE LCPCOE AND WHY DO WE CARE?

9. Educators use technology in a responsible manner and safeguard the electronic devices and data entrusted to them.

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LCPCOE: CHANGES ADD TECHNOLOGY USE/MISUSE

- Educators shall **always** use technology, electronic communications, and social media **in a responsible and professional manner** and appropriately safeguard the unauthorized use or access to electronic devices and data entrusted to them.
- An educator responsibly creates, uses, consumes, distributes, and protects information and data across all technologies.
- **Educators shall maintain appropriate boundaries with colleagues, students, and the school community when using technology and electronic communications.**
- While maintaining their constitutional rights, educators recognize that when using technology, the words they choose and the content of their statements can reflect negatively on their positions, schools, and the profession.

LCPCOE: CONDUCT UNBECOMING NOW INCLUDES:

- a) Negligently failing to prevent others from unauthorized use of professional electronic devices to access improper or inappropriate material or confidential data.
- b) Negligently failing to prevent students from unauthorized use of the educator's personal electronic devices to access improper or inappropriate material or confidential data.
- c) Accessing inappropriate, non-school-related material on school-owned device not in accordance with local board policy.
- d) Presenting inappropriate, non-school-related media to students.

LCPCOE: CONDUCT UNBECOMING INCLUDES:

- e) Using technology, social media, or other electronic communications to promote inappropriate communications with students (for example, excessively, for non-educational purposes, or requesting students or minors to conceal communication).
- f) Knowingly failing to report and/or address instances of electronic or online harassment, bullying, or intimidation of a student.
- g) Knowingly failing to appropriately intervene when made aware of inappropriate or illegal images or material involving students or minors in electronic forms.

LCPCOE: CONDUCT UNBECOMING

h) Using technology to host, post, or distribute improper or inappropriate material that could reasonably be accessed by the school community.

This includes, but is not limited to:

- pornography or obscene material
- promotion of drug use or underage consumption of alcohol
- promotion of violence, disparagement of students, disparagement based upon race
- ethnicity or religion, and the use of profane or offensive language

i) Using school technology to run, manage, or promote a personal business venture.

DISCIPLINARY ACTIONS – LICENSURE

- Letter of Admonishment - Suspension (1day – 5yrs.)
 - Negligence in failing to prevent others/students from unauthorized access of professional devices.
 - Accessing inappropriate, non-school related material on school-owned devices.
 - Using school technology to run, manage, or promote a personal business.
- Suspension (1day – 5yrs.) - Revocation/Denial
 - Presenting inappropriate, non-school related media to students.
 - Using technology to host, post or distribute inappropriate materials.

DISCIPLINARY ACTIONS – LICENSURE

- Suspension (1yr. – 5yrs.) - Revocation/Denial
 - Using technology to promote and/or engaging in inappropriate communication with students.
- Suspension (1 day – 5yrs.)
 - Failing to report/address instances of electronic harassment, bullying, or intimidation of a student.
 - Failing to appropriately intervene when made aware of inappropriate or illegal matters involving students or minors in electronic forms.

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When Coaches Go Out of Bounds

COACHES' ONLINE BEHAVIOR

- In one situation, a cheerleading coach/advisor was found to have hundreds of pictures of her cheerleaders in her Instagram account.
 - One picture was a teenager in a bikini, with the caption “hey there fatty, get working harder for the season.”
 - One picture showed three girls with the coach, with the caption “cannot wait to have these girls on the squad with me next year.” The girls were in 8th grade, the coach was in High School.
 - Many pictures showed her driving in the car with the cheerleaders in the backseat.

COACHES' ONLINE BEHAVIOR

- In another situation, a female athlete reported that a track coach had massaged her feet as they were returning from a track meet. The track coach also was driving the car as this occurred. During an investigation, it was uncovered that the track coach had text messaged this female student on a number of occasions including the following messages:
 - “miss you.”
 - “it’s nice having two hot chicks on the team”
 - “I like hot sweaty people”

STUDENT/COACH/TEACHER ONLINE BEHAVIOR

- **“Friending” students**
 - Is it a good idea? In case you needed an answer: No, it is not.
 - Employees may open themselves up to numerous issues . . .
 - Students are able to see personal information.
 - Parents do not necessarily know the nature of a coach’s communication with their children.
 - Does a coach really want to be able to see everything their athletes are doing?
 - What happens if the coach discovers inappropriate material online?
- **Gaining access to student passwords**
 - Privacy issues
- **Forming Facebook groups**
 - If you want to use Facebook as a method for communicating with students, it may be best to form a group. This way, information can be passed along, but the students, coaches and teachers do not have to become “friends.” And parents may join.

COACHING COMMUNICATIONS

- At times, coaches may use cell phone texting to contact students about team related matters.
 - Cancelled practices, cancelled games, etc.
- As with any other technology, there are risks associated with allowing coaches and students to text each other.
- Texting policies provide guidance as to when texting is permitted between coaches and students and what types of messages are unacceptable and could result in discipline.



TEACHER ARRESTED, ACCUSED OF
SEXTING

WHAT NOT TO DO...

- In one situation, a coach was charged with and convicted of sending inappropriate text messages to a student. At the time the student was 14-years-old.
- A sample of his texts:
 - "please don't call me a creeper for trying to get a pic. Or for what I'm about to say."
 - "your looks...you are incredibly attractive! You're crazy pretty and you have a very hot body! (remember, telling you in a non-creepy way!) you always look so good in everything you wear! You're funny. You're flirty. You're pretty much super hot! If I was in your grade, you would be the one girl that I would go after! You would be the #1 on my list! You are freaking hot! Absolutely no other way to say it!"
 - "there is no way that I would be interested in anyone else in that school if I was there! I have no idea why you didn't see it but you catch every guy's eye when you're around! Every guy! (and I think you could give me a pic if you wanted to...not the hot shower...yet, but another pic just for me...for spilling my guts!)"
 - "I really hope you don't act weird around me now. Heck, you did at one time put your hand in my pocket for candy :)"

...AND, MY PERSONAL FAVORITES

- “you have so much going for you! You have no idea how attractive you are!”
- "if I don't get a pic, can you give me your address to catch a glimpse during shower time  I know! I know! I gotta try! I just told you all the reasons why you're hot. Hoping I get something in return :)"

TEXTING POLICY

- If your district allows coaches to communicate with students via texting, the district should have a texting policy.
- There should also be a consent form signed by each athlete's parents.



TEXTING POLICY

- List Appropriate Uses, such as:

- A school district employee must receive written permission from students and parents if a student is under the age of 18 to use cell phone texting prior to use of such technologies, and must specify how and when he or she plans to use texting. If a student or parent refuses to accept text messages from an employee, the school district employee must use an alternative means of communication without any penalty to the student involved.
- A district employee may maintain a private address book with student cell phone numbers. However, the employee must protect student privacy rights and ensure that the numbers are not available to unauthorized individuals under any circumstances.

TEXTING POLICY

- List Appropriate Uses, such as:

- The content of all text messages must directly involve a school-related subject matter. Cell phone texting should never be used to conduct a personal conversation with a student.
- If an employee receives an inappropriate text message response from a student, it is the responsibility of that employee to contact a student's parent and school administration immediately to address the behavior.
- An employee must use text messaging sparingly. A student may incur charges from his or her cellular phone service provider for use of text messaging. Frequent text messaging may be considered harassment as well.

TEXTING POLICY

- List Inappropriate Uses, such as:

- Messages that are sexual in nature, or that otherwise solicit or encourage an inappropriate personal relationship with a student.
- Messages that contain inappropriate language, gestures or signs such as racial slurs, or biased, lewd or lascivious expressions.
- Language that disparages a student on the basis of race, ethnicity, socioeconomic status, gender, national origin, sexual orientation, political or religious affiliation, physical characteristics, academic or athletic performance, disability or English language proficiency.

TEXTING POLICY

- List Inappropriate Uses, such as:

- Messages that are used to harass or intimidate a student or that encourage others to harass or intimidate another student.
- Language that encourages students to act inappropriately or that provokes altercations between students.
- Language that would be considered inappropriate to the educational interests of a student or that would negatively impact the school community at large.

TEXTING POLICY

- Have the employee **sign a copy** of the policy.
- Inform employees that there is **no expectation of privacy** when messages are sent using district technology.
- Best Practices tip:
 - Get parent phone numbers and copy parents on any text sent to students.
 - Or set up a District-approved system whereby coaches are required through the texting policy to use the system in order to text students
 - Remind 101
 - Wiggio
 - Athleon
 - RainedOut
 - ClassParrot
 - ClassPager
 - gText

TEXTING CONSENT FORM

, (an) employee(s) at School District, would like to send you/your student cell phone text messages regarding important school related information. However, the district recognizes that you may not wish to receive messages for personal or financial reasons. By signing and returning this agreement, you may specify your choice as to whether you are willing to participate in this type of communication. Please note that a student will not be penalized for refusing to accept cell phone texts from the school district.

All employees of the school district who utilize this form of communication are required to sign the School District Cellular Phone Texting Agreement and must comply with the rules and regulations explained by that Agreement. A copy of the Agreement is attached for your review. If at any time you believe a school district staff member has violated this agreement, you should report such behavior to _____.

If you wish to rescind your permission to accept text messages from the school district, you may do so at any time in writing by sending a letter to _____. Such rescission will take effect upon receipt by the school district.

Please check one of the choices below:

I GRANT PERMISSION for the abovementioned employees of the School District to send me/my child cellular phone text messages for school related purposes. I further recognize that I may incur charges from my cellular phone service provider for sending or receiving text messages, and hereby agree to take full financial responsibility for those charges.

I DO NOT GRANT PERMISSION for the abovementioned employees of the School District to send me/my child cellular phone text messages.

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TEAM WEBSITE / FACEBOOK PAGE / INSTAGRAM ACCOUNT / SNAPCHAT ACCOUNT

- Sometimes coaches, students or parents may want to set up a social media account/page with information about the team and players.
- If the coach sets up the social media account/page:
 - FERPA is implicated – *i.e.*, only “directory” information can be placed on the page.
 - The coach should check with the school to make sure that the parents of each of their players has not opted out of having directory information shared.
 - Students should not be in charge of updating the website.
- If a parent sets up the website:
 - Where are they getting their information?
- Athletic Boosters?
 - Probably all right. Same concerns as if a parent sets up the page.

21st Century Coaching and How to Avoid Career Derailment

DON'T FORGET

CHILD ABUSE REPORTING REQUIREMENTS

"No person described in division (A)(1)(b) [*includes teachers and, by implication, coaches*] of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division." ORC 2151.421 (Effective 9/29/2015)

HOW TO REPORT

“...the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred.” ORC 2151.421

- Note that reporting to your superior at work does not satisfy this requirement. If you do report something to a superior and are treated dismissively, you are still obligated to comply with the statute.
- Some practical suggestions.

OTHER AREAS OF CONCERN – JUST SAY NO!

- Hazing
- Body Shaming
- Physical Contact with Athletes
- Inappropriate Language
- Physical Punishment and Coaching by Fear
- Inappropriate Dress
- Administration of Medication (Perkins case --



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SEXUAL GROOMING

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- Sexual molestation by educators is normally always preceded by sexual grooming.
- Since sexual grooming is almost always accomplished through boundary invasions, all boundary invasion behavior is suspect and must be examined.
- Coaches have significantly more opportunity to engage in this kind of behavior.

SEXUAL GROOMING

- Defined:

Increasingly invasive and inappropriate actions deliberately undertaken with the aim of befriending and establishing an emotional and/or physical connection with a child, in order to lower the child's inhibitions in preparation for sexual abuse.

SEXUAL GROOMING

- Examples (Generally):

- Giving gifts or money to a student when there's no educational purpose;
- Engaging in peer-like behavior with students (being cool like one of the kids);
- Being overly touchy with students;
- Favoring certain students by giving them special privileges; and
- Being alone with a student behind closed doors.

SEXUAL GROOMING

- Favoring certain students by inviting them to come to the classroom at non-class times;
- Getting a student out of class repeatedly to visit a teacher;
- Talking to a student about problems not normally discussed with an adult;
- Telling a student “secrets” or having secrets; and
- Allowing the child to get away with inappropriate behavior.

SEXUAL GROOMING

- Giving a student rides in a personal vehicle;
- Extending contact beyond the school day for personal purposes;
- Telling sexual jokes to students/discussing sexual topics with students;
- Hugging, kissing, or other physical contact with students; and
- Using e-mail, text-messaging, or web sites to discuss personal topics or interests with students.



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STRATEGIES FOR PREVENTION

STRATEGIES FOR PREVENTION OF BOUNDARY INVASIONS IN ATHLETICS

- Educate students and parents on how to identify inappropriate behavior and to report inappropriate boundary invasions to administrative personnel to make them aware of the issue for further investigation.
- With student athletes, be particularly mindful of the strength of the bond with coaches when addressing participation in sports.
- Notify all employees that inappropriate boundary invasions will not be tolerated. Rinse and repeat.
- Athletic Directors and Principals must take an active role in this process. (Train the Trainers!)
- Remain observant and have employees do the same.

STRATEGIES FOR PREVENTION OF BOUNDARY INVASIONS IN ATHLETICS

- Mandate all employees who observe inappropriate boundary violations by other staff to report such occurrences to particular administrative personnel for further review.
- Correct and discipline employees who engage in inappropriate boundary violations or who are aware of another employee's misconduct but fail to report such conduct.
- Carefully screen non-teacher coaching applicants – make sure they understand the dynamics and their position as a role model.
- Communicate expectations early.....and often.
- Accountability is hard work – do it anyway.

STRATEGIES FOR PREVENTION

- Be clear about the fact that there is no reasonable expectation of privacy when using school-owned technology AND that private use of social media has limits!
- Clearly reinforce the prohibition against the release and/or use of confidential information, e.g., personal information on students, co-workers, and supervisors.
- Post the rules regarding the use of technology on websites and in classrooms, highlighting rules pertaining to social networking and what to do if a student feels victimized.

STRATEGIES FOR PREVENTION

- Update and enforce board policies that expressly prohibit inappropriate invasions of student boundaries by employees.
- Implement new policies to address blogging and social networking websites for students and all employees, and train your employees and students on those policies.
- Monitor changing trends in technology and regularly update “Acceptable Use” policies (AUPs) for all forms of technology.



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SUMMARY

SUMMARY

- Report suspected child abuse and/or criminal behavior ASAP (work with children services).
- Board Policy – make sure yours is up to date and effective. **Follow it!**
- Support staff training on sexual misconduct/harassment and boundary invasions (not just for new teachers). Rinse and repeat.
- Create a **Safe Reporting Environment** – There may be “cultural” resistance.
- Remove employee and allow for an effective investigation (a “dignified search for the truth”).
- Cooperate with the authorities – this may require patience!

SUMMARY

- Avoid the temptation to let athletics be – or remain – out of sight.
- Make sure that the Athletic Director and Building Administration have a full understanding of the problem.
- Do an “Athletic Audit” and test the knowledge of the entire athletic staff.
- In-service coaches fully on these issues – rinse and repeat!

SUMMARY

- Be prepared to respond to the media promptly and effectively.
- Review the Student Code of Conduct and the Athletic Code of Conduct – Athletes must know where they can report sexual harassment, boundary invasions, hazing, etc.
- Reinforce the proper steps for staff – including coaches – in reporting suspected misconduct by others.
- Don't rely on the “Permit” process or OHSAA – generate your own training and expectations geared to your culture and addressing your problems.
- Remind yourself of the fact that we are an educational institution with athletic programs – not the other way around!

A FINAL NOTE

- Participation in athletics (and all extracurricular activities) is a privilege and not a right.
- Student athletes can be prohibited from participating and have no statutory rights to challenge such removal.
- As such, if a student athlete fails to meet our expectations for what it means to be a part of a team, show them the door.
- Not doing so demonstrates that we have forgotten why we are here.

Thank You For All You Do for Student Athletes!!!!

Questions?

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The information in this handout and presentation was prepared by Ennis Britton Co., L.P.A. It is intended to be used for general information only and is not to be considered specific legal advice. If specific legal advice is sought, please consult an attorney.

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