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Historically, anecdotal evidence seems to suggest that the law of “sports” is the equivalent of the law of “entertainment” – and vice versa, that the two areas of the law should be inextricably linked – represents the thinking of earlier, less complicated legal times. Still, legal commentators and bar associations typically maintain that sports law and entertainment law are indistinguishable. When continuing legal education courses and conferences turn their focus on sports, entertainment issues are not far behind – and vice versa. Tradition has it, then, that legal issues involving sports and entertainment go hand in hand as a single area of “the law.”

Undoubtedly, much of the rationale for equating “sports law” to “entertainment law” has its roots in the significant body of case and codified law dealing with professional sports. Anyone who owns a television in 2010 can readily see that the goals (so to speak) of professional sports are to provide a product that entertains. And, since pro athletes, coaches and officials are paid employees whose activities are recorded and played out before tens of thousands in a stadium or arena, and often millions more on television, the Internet and radio, the professional sports industry begets legal issues in a number of areas, including intellectual property, antitrust and contracts, and labor law.

While professional sports is, without a doubt, bound to the “entertainment” side of the law, the “law” of sports is much more than the labor law, contracts and intellectual property aspects of the legal relationships created for entertainers and professional athletes.

There are numerous state laws relating specifically to educational, government sponsored and proprietary entity sponsored sport programs and activities. While professional sports has seen the enactment of sports agent legislation in about two-thirds of the states, the nonprofessional sports segment has witnessed the proliferation of codified law in any number of substantive areas, including at least the following:

- Tort: federal and state volunteer immunity legislation, immunity legislation for coaches and certain volunteer officials, state

volunteer tort immunity statutes for licensed sports officials;

- Administrative: mandated criminal background checks for coaches, officials and volunteers; statutorily authorized athletic code of conduct legislation and regulations; athletic trainer licensing;
- Criminal: statutes providing for enhanced criminal penalties for assaults on officials and coaches, anti-hazing legislation, and penal sanctions for those disrupting sports events.

Claims arising out of college, high school and recreational organization sponsored sports events dot the legal landscape: allegations of negligently inflicted bodily injuries; violent acts in athletic competition; administrator, coach and official liability; defamation; governing body sanctions; and legal challenges to disciplinary actions are a few examples.

Codified law, administrative law and case law all contribute to the evolution of “Sports Law” as a freestanding specialty area of the law – independent of the “Sports and Entertainment Law” amalgam of contracts, player unions and licensing and media rights.

The interplay of state and local government with voluntary participation in athletics, statutory immunity, and sport specific statutes all point to a welter of litigation issues for defense attorneys. Thus, the demographics of the entity client in sports law change dramatically when the focus shifts from the professional sports industry to the nonprofit segment.

### Governing Bodies and Their Authority

Amateur sport for school and college athletes is subject to the pervasive influence of two national organizations: the National Collegiate Athletic Association (NCAA) and the National Federation of State High School Associations (NFHS). The NCAA, once described by the Supreme Court of Kansas as a “plump fowl with tempting luxurious plumage” has a membership numbering nearly 1300 colleges and universities.

The NFHS, with a membership including virtually all state high school athletic association governing bodies and a number of other institutional members, provides program initiatives that impact more than 11 million students involved in athletics.

Related subgroups, chapters, conferences, and constituent organizations impact the legal rights and obligations of the

majority of amateur athletes and sports entities in the United States. Some organizations exercise their authority along geographical or participant classification lines. These include, among many others, Amateur Softball Association, American Amateur Racquetball Association, Disabled Sports USA, Little League Baseball, Inc., Pony League, Pop Warner Football, and Special Olympics International. Federal legislation has recognized the existence of so-called “national governing bodies” whose focus is sport-specific and whose authority takes up where the academic institutions and lower-level competition groups leave off.

Superimposed across the national structure of the various governing bodies that embraces and regulates competition among high schools and colleges are any number of college and high school conferences and leagues.

#### Limits of Power

In practice, each of these conferences and leagues constitutes its own form of governing body that regulates the athletes enrolled in the institution and is itself subject to be sued and can sue where legal rights are being asserted.

Each of these groups has its rules. Frequently, the procedures by which rules are enforced become the subject of litigation.

Although courts are generally reluctant to interfere in the internal affairs of associations, they will take action if a fight is lost because an association has disregarded its own rules. Although such lapses may not be grounded in Constitutional law, they nevertheless can spell the difference between a governing body that is able to enforce its actions and one that weakens itself by making rules and breaking them.

Courts generally require that an aggrieved party exhaust an association’s procedures for redressing a wrong or appealing an unfavorable decision before bringing suit.

To be sure, both amateur and professional sports are the subject of a significant body of codified and case law. Sport specific statutes and a mounting docket of case law span a number of interrelated areas of the law, including torts, contracts, administrative procedures, associations and corporations,



antitrust, labor law, intellectual property, taxation, and criminal law.

Sports industry leaders and participants need counsel well versed in the law governing sport and physical activity to enforce their rights, defend their programs and steer clear of legal entanglements.

