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OHIO SCHOOL BOARDS ASSOCIATION
2015 CAPITAL CONFERENCE
CRITICAL ISSUES TRACK

**THE ABC'S OF CONDUCT UNBECOMING:
ATHLETES, BOUNDARIES, AND COACHES -
Addressing the persistent problem of
inappropriate behavior in the coach-student
athlete relationship**

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GOALS FOR TODAY'S DISCUSSION

- To gain a greater perspective on the persistent problems occurring in interscholastic sports surrounding relationships between coaches and student athletes;
- To revisit the standards of "conduct unbecoming" and its application to these issues;
- To consider preventive measures aimed at keeping your district off the front page, the television and the internet;
- To address strategies for managing the crisis if it hits; and
- To think proactively about how to keep children safe.

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SEXUAL MISCONDUCT



According to the Ohio Department of Education (ODE) statistics and recent court cases of teacher misconduct, there are more than a few bad apples in Ohio's public schools.

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OFFICE OF PROFESSIONAL CONDUCT 2014 REPORT

- Educators in Ohio are nationally recognized, highly qualified and exemplify the high ethical standards embodied in the *Licensure Code of Professional Conduct for Ohio Educators*. With approximately 250,000 licensed educators, the Office receives a relatively small number of educator misconduct referrals each year.
- From 2008 forward, yearly referrals have only changed 1.9% to 5.7% per year. In 2013, the Office received 163 more referrals than the previous year. This represents a 2.0% increase in educator misconduct referrals.

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PERCENTAGE CHANGES IN YEARLY REFERRALS

Yearly Referrals	2005	2006	2007	2008	2009	2010	2011	2012	2013
Increase/Decrease	N/A	23.6%	5.2%	39.2%	-1.9%	2.0%	3.7%	-5.7%	2.0%

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Total Percentage Change Over Time

Yearly Referrals	2005	2006	2007	2008	2009	2010	2011	2012	2013
Increase/Decrease	N/A	23.6%	5.2%	39.2%	-1.9%	2.0%	3.7%	-5.7%	2.0%

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ALL COACHES ARE LICENSED EMPLOYEES

- The Ohio Department of Education issues Pupil-Activity Program Permits to any non-licensed person desiring to coach for a public school district. R.C. §3313.53(C).
- As such, the Code of Professional Conduct and your obligation to report "licensed employees" under R.C. §3319.313 to the Office of Professional Conduct extends to all educators, including coaches.

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Conduct Unbecoming: The Standards

- **Professional Behavior** – Educators behave in a professional manner, realizing that one’s actions reflect on the status of the profession. (The Role Model Provision).
- **Professional Relationship With Students** – Educators maintain a professional relationship with students at all times, both in and outside of the classroom.
- **Accurate Reporting** – Educators accurately report information required by the local board of education or governing board, state education agency, federal agency or state or federal law.

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Conduct Unbecoming: The Standards

- **Criminal Acts** – Educators adhere to federal, state and local laws regarding criminal activity.
- **Confidentiality** – Educators comply with state and federal laws related to maintaining confidential information.
- **Use, Possession, or Unlawful Distribution of Alcohol, Drugs, and Tobacco** – Educators serve as positive role models and do not use, possess or unlawfully distribute illegal or unauthorized drugs.

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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.

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THE DYNAMICS

- Coaches are generally admired by kids and parents alike and (like priests) 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.

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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.

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Child Abuse Reporting Requirements

"No person described in division (A)(1)(b) [includes teachers] 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)

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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.

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"Linking" TO "DIGITAL NATIVES" (And other bad ideas)

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MISCONDUCT AND SOCIAL MEDIA

- Important Issues Addressing Staff-to-Student Conduct:
 - Employee use of the Internet – social networking sites, blogs, etc.;
 - Employee First and Fourth Amendment rights;
 - Electronic communications with students by staff;
 - E-mails – FERPA, IDEA, and confidentiality;
 - Collective bargaining issues; and
 - "Conduct unbecoming the teaching profession," as defined by the Ohio Department of Education.

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"LINKING" TO STUDENTS

- When Electronic Communications by Staff with Students Becomes a Really, Really Bad Idea:
 - Social networking technology facilitates the blurring of lines between teacher and student – between athlete and coach;
 - Allows students and teachers more access to each other outside of school, giving rise to more opportunities for inappropriate relationships – this is particularly true with student athletes and coaches;
 - Teachers who are not that much older than the students also grew up using text messaging and other forms of digital networking;
 - Internet and cell phones create ripe opportunities for general misconduct, sexual harassment, or child molestation; and
 - Misuse of social technology can facilitate "grooming" and other forms of inappropriate conduct.

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SEXUAL GROOMING

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SEXUAL GROOMING

- 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.

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- 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.

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- 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.

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- 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.

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- 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

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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.

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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.

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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.

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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

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- Report suspected child abuse and/or criminal behavior ASAP (work with children services).
- Board Policy – make sure yours is up to date and effective.
- Support staff training on sexual misconduct/harassment and boundary invasions (not just for new teachers).
- 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!

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SUMMARY

- Avoid the temptation to let athletics out of your 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!
- Fully and fairly investigate all allegations of inappropriate behavior – DO THEM RIGHT!
- Weingarten.
- Due Process (Loudermill).
- Garrity.

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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!

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QUESTIONS?


