

# Hazing in Interscholastic Athletics: Legal Issues and Strategies for Prevention

BY LEE GREEN

**A**lthough hazing rituals in athletics programs are not a phenomenon merely of recent times, media coverage of such incidents has increased dramatically during the past five years, as has awareness by the public, school administrators and athletics personnel of the pervasive scope of the problem.

*ESPN's SportsCenter* recently aired a three-part series on the epidemic of hazing incidents in high school and college sports programs, with the focus of the coverage being on the lack of effective anti-hazing policies at most schools.

*ESPN's Outside The Lines* broadcast a show about the hazing inflicted by upperclass members of a college women's soccer team on underclass players, a ritual that had been videotaped and posted online.

*CNN* aired a segment detailing a high school powder-puff football game hazing incident, including video that was shot by one of the alleged perpetrators. The report emphasized the lack of an anti-hazing policy at the school in question.

*ABC's 20/20* televised a segment on a preseason high school football camp hazing ritual that involved sexual assault, sexual battery and sodomy being committed by upperclassmen against new team members, a case that received extensive newspaper, magazine and television coverage across the country. Despite previous hazing problems in its athletics program, the school in question had failed to establish an effective anti-hazing policy.

*CBS's 60 Minutes* broadcast a segment on a lawsuit by a female soccer player against her school for hazing where team members were forced to simulate sex acts and drink excessive amounts of alcohol as part of an initiation ritual at which the team's coach was present.

*HBO's Real Sports* featured a story on the prevalence of hazing throughout team sports, including the high school, college and professional levels, a report that detailed the career-ending eye injury suffered by an NFL player who was hit in the face with a bag of coins

while running a training camp hazing gauntlet.

*Dateline NBC* aired a segment on the only major study, performed by Alfred University in New York, of sports-related hazing. The research indicated that approximately 80 percent of athletes had been hazed on at least one occasion and that 20 percent of athletes had been hazed by methods that were physically dangerous or violated criminal laws.

Hundreds of interscholastic sports-related hazing lawsuits have been decided by courts in recent years and many more incidents not leading to litigation have been reported in the media, most of which were likely settled before the filing of lawsuits or before trial. The following is a brief summary of the facts from a sampling of 10 recent court cases. The names of the high schools have been omitted, but in order to highlight the nationwide scope of the problem, the state in which the incident occurred is identified.

"Federal anti-hazing legislation was introduced in 2003, but Congress has not yet taken action on the proposed law. In sum, the legal imperative has never been greater for schools to develop and implement effective anti-hazing policies."

1. In a Massachusetts case, sophomore football players were forced by upperclassmen to strip and run the length of the field naked with crackers held between their buttocks, the penalty for dropping the cracker being to eat it. The activity was part of an annual initiation rite of which team coaches were aware.

2. In a Louisiana case, female soccer players were forced to simulate oral sex and intercourse as teammates sprayed them with syrup and whipped cream to simulate ejaculation. The activity was part of a yearly hazing ritual of which team coaches were aware.

3. In a Colorado case, freshman cross country runners were covered with motor oil and locked inside lockers as part of their school's "Freshmen Athlete Orientation Day" activities.

4. In a Florida case, female swimmers were forced to chug pitchers of beer and run naked through the halls of their school late at night as part of their team's annual initiation ritual for new team members.

5. In a New Jersey case, sophomore football players were forced by older teammates to parade around the football field with the youngsters' fingers inserted into the anus of the player in front of them in line.

6. In a New Mexico case, new members on the girls soccer team were forced to play a night game on the school's practice fields while wearing only bras and panties.

7. In a California case, new track team members were forcibly restrained and had their heads and pubic areas shaved by upper-classmen teammates.

8. In a Washington case, freshman wrestlers were sodomized with mop handles while upperclassmen held them down and the rest of the team watched. Several of the victims were hospitalized with internal bleeding and other serious injuries.

9. In a Mississippi case, female softball players were driven five miles into the country at 2 a.m., forced to strip to bras and panties, and left to walk back to the home at which the girls were having a team overnight. One victim was severely injured when she became entangled in a barbed wire fence in the dark.

10. In a New York case, new members of the girls softball team were required to shoplift five specific items each as part of an initiation scavenger hunt set up by team captains.

As illustrated by these cases and hundreds of others like them, hazing is a nationwide, gender-blind problem. Hazing activities tend to fall into one or more of 10 distinct categories. In developing an anti-hazing policy, these commonalities provide the bases for creating a precise definition of hazing and a list of prohibited hazing activities. Every one of the specific examples stated below has been ruled in one or more court cases to constitute hazing.

**Category One:** *Physical abuse* of student-athletes, including beatings, paddlings, sleep deprivation, excessive exercise and extreme exertion.

**Category Two:** *Confinement* of student-athletes, including being tied up, locked inside lockers, closets or car trunks, and being lashed to goal posts, backstops and stadium railings.

**Category Three:** *Disgusting substances*, including covering student-athletes with feces, urine, motor oil, syrup, peanut butter, blood, paste and glue.

**Category Four:** *Consumption of prohibited substances*, including alcohol, tobacco products and illegal drugs.

**Category Five:** *Inappropriate clothing*, including student-athletes being forced to participate in activities in their underwear, in bras and panties, and in the nude.

**Category Six:** *Commission of illegal acts*, including shoplifting, theft of alcohol, and gang-related activities.

**Category Seven:** *Humiliation rituals* where individuals are singled out from the group for some combination of other forms of hazing.

**Category Eight:** *Commission of sexual acts*, including simulation of such acts, the performance of actual sex acts, and the incorporation of sex toys into these behaviors.

**Category Nine:** *Commission of sexual assault and sexual battery* against student-athletes, including the increasing incidence of sodomy perpetrated by older team members against team newcomers using a wide variety of foreign objects and instrumentalities.

**Category Ten:** *Away-from-school hazing activities*, including incidents at summer camps, preseason training camps, on away-game overnight trips, and on buses returning from road trips.

Five components are essential for the creation of an effective anti-hazing policy. First, a definition of hazing and prohibited activities must be written. All of the above categories of behaviors that have been repeatedly held by courts to constitute hazing should be included in the definition and list of prohibited activities. Second, reporting procedures must be developed that can be used by victims of hazing to inform school officials of incidents. Third, the methodology for communicating all aspects of the policy and reporting procedures to school personnel, student-athletes and parents must be implemented. Fourth, alternative team-bonding and character-building activities should be developed to replace prohibited behaviors. Fifth, a system for monitoring ongoing compliance with the policy must be instituted.

It is also important to note that 44 states have enacted anti-hazing statutes, most of which both criminalize hazing activities and authorize civil suits for money damages against both the direct perpetrators and against coaches, athletics administrators, school personnel and districts for vicarious liability. Several recent U.S. Supreme Court decisions established legal principles increasing the liability of schools in harassment cases and clarifying the scope of harassment to include same-gender harassment similar to that which typically occurs in hazing cases. Federal anti-hazing legislation was introduced in 2003, but Congress has not yet taken action on the proposed law. In sum, the legal imperative has never been greater for schools to develop and implement effective anti-hazing policies. ©

Additional information on hazing may be found at [www.nfhs.org/hstoday](http://www.nfhs.org/hstoday).

Lee Green is an attorney and a professor at Baker (Kansas) University, where he teaches courses in Sports Law, Business Law and Constitutional Law. He may be contacted at [Lee.Green@BakerU.Edu](mailto:Lee.Green@BakerU.Edu).