Legal Issues In
High School Athletics
Hackney Publications

Inside This Issue

Contract-less Coach Loses Injunction Request To Reinstate Contract

Takeaways

- Coaches employed on year-to-year contracts must understand that without a signed agreement for the upcoming season, courts will not recognize a viable breach-of-contract claim.
- Defamation claims against school officials face steep hurdles because personnel communications are typically privileged and public-figure coaches must prove actual malice.
- Courts are highly reluctant to issue injunctions restoring a coach to their position—especially when no contract exists—making strong documentation and realistic expectations essential when disputes arise.

By Jeff Birren, Senior Writer.

Sterling Carvalho was the head football coach at Kahuka High School from 2018 through 2024. It appears from media accounts that the father of one player publicly criticized Carvalho. Carvalho confronted the player who subsequently complained to school authorities. Following an investigation, Carvallo was terminated

See CONTRACT-LESS on page 9

Court Grants Athlete's Appeal in Case Involving Transfer Penalty and the Ohio High School Athletic Association

Takeaways

- Transfer-eligibility appeals remain extremely difficult to win, making early, formal, written documentation of bullying or safety concerns essential for any family considering a transfer.
- This case shows that informal reporting to coaches or administrators is not enough—schools must formally log and investigate concerns to ensure students can meet evidentiary requirements for transfer-rule exceptions.
- Athletic directors should educate families and coaches on proper reporting procedures, as failures in documentation can unintentionally block deserving students from relief under transfer-penalty rules.

By Holt Hackney

Many state high school athletic associations impose penalties

See COURT on page 12

Litigation Simmers in Case that Will Impact Transgender Participation in School Athletics

Takeaways

- Current federal court decisions, including Judge Tostrud's ruling, reinforce that transgender-inclusive athletic policies are viewed as consistent with Title IX.
- A coalition of 12 state attorneys general is actively defending transgender students' right to participate on teams aligned with their gender identity, emphasizing the mental-health and educational benefits of inclusion.
- The pending Eighth Circuit decision could influence future athletic policy nationwide, making this a critical case for school leaders to monitor closely.

By Shelby Stevens

On May 20, 2025, the non-profit organization Female Athletes United ("FAU") and several high school athletes ("Plaintiff") filed suit against Minnesota Attorney General Keith Ellison, the Minnesota Department of Education, and the Minnesota State High School League challenging Minnesota's state policy that permits transgender students to compete and participate on sports teams that align with their gender identity.

Plaintiff filed a motion for a preliminary injunction which District Court Eric Tostrud denied. In his opinion, Judge Tostrud found that FAU had not demonstrated a strong likelihood of success on the merits. He concluded FAU was not convincing in its arguments that Minnesota denied FAU's athletes' equal treatment and effective accommodation under Title IX. His decision, along with other federal courts' decisions, have found that gender-inclusive policies fall squarely within the bounds of Title IX. Following the denial of the preliminary injunction, FAU immediately requested an emergency injunction pending appeal.

The Plaintiff's arguments center on two core elements: the Minnesota athletic policy violates Title IX by disadvantaging cisgender girls, and transgender girls' participation undermines fairness and safety in girls' contact and competitive-skill sports.

The Coalition Steps In

Following Plaintiff's request for an emergency injunction, 12 state attorneys general, led by Washington State Attorney General Nick Brown, joined forces to support Minnesota Attorney General Ellison in defending the rights of transgender youth to play on sports teams that align with their gender identity.

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Attorney General Brown filed an amicus curiae brief on October 31, 2025 with the attorneys general of California, Connecticut, Hawai'i, Illinois, Maine, Maryland, Massachusetts, Nevada, New York, Oregon, Rhode Island, and Vermont with the Eighth Circuit Court of Appeals.

In support of the brief, Brown says "I believe strongly in protecting the rights of all Washington kids – including transgender youth." "Equal access to participation in sports is important to kids' wellbeing, both emotionally and physically, and barring kids from school athletics because of their gender identity perpetuates the kind of discrimination our state has long sought to abolish."

The Amicus Brief

In their arguments, the amici states outlined that transgender and gender expansive youth continue to face discrimination, threats, harassment, and other challenges. Brief of Amicus Curiae States of Washington, California, Connecticut, Hawaii, Illinois, Maine, Maryland, Massachusetts, Nevada, New York, Oregon, Rhode Island & Vermont in Support of Appellees' Opposition to Appellant's Emergency Motion for Injunction Pending Appeal, Female Athletes United v. Ellison, No. 25-2151 (8th Cir. 2025). The brief highlights that discrimination of gender expansive and transgender youth harm their mental and physical health, as well as educational outcomes.

The brief argues that by permitting transgender and gender expansive youth to participate in athletics, such participation can increase their self-esteem and lower rates of depression and other mental health issues. In support of this argument, the amici states reference U.S. Transgender Surveys, reports, and peer reviewed studies. The coalition and the member states have a long-standing history of protecting transgender and gender-expansive youth. Each of the coalition states have found that by protecting the rights of youth to participate in sports, it creates a welcoming educational and athletic environment for kids. In addition to creating a welcoming educational and athletic environment, the states emphasize that athletic participation is linked to academic achievement and improved academic performance, as well having a positive impact on physical health.

To counter the Plaintiff's original Title IX arguments, the brief supports the holding of Judge Tostrud and urges the court not to issue the emergency injunction on the grounds that the FAU's attempt to bar transgender female athletes from participating in sports is "wholly inconsistent with Title IX." Brief of Amici Curiae States of Wash. et al. at 16., *Female Athletes United v. Ellison*, No. 25-2151 (8th Cir. 2025). By citing precedent to United States Supreme Court cases and decisions from other federal courts, the coalition argues that courts have recognized that Title IX bar against sex discrimination "encompasses discrimination against transgender students." Brief of Amici Curiae States of Wash. et al. at 17, Female Athletes United v. Ellison, No. 25-2151 (8th Cir. 2025). The Amici States argue that policies permitting transgender youth to participate in sports do not compromise fairness or reduce opportunities for cisgender athletes. "Granting FAU's motion would needlessly deny transgender student-athletes something that their cisgender female athletes take for granted: the ability to participate on an athletic team at school with their friends consistent with their lived identity." Brief of Amici Curiae States of Wash. et al. at 20, *Female Athletes United v. Ellison*, No. 25-2151 (8th Cir. 2025).

Conclusion

The amicus curiae brief submitted by the coalition of Washington and 12 other states in *Female Athletes United v. Ellison* provides policy rationales and a challenge to FAU's emergency injunction request. As the Eighth Circuit has yet to consider whether to grant the injunction, this case will be one to watch as it relates to the future of transgender participation in school athletics.

Shelby Stevens is a civil litigation attorney whose practice includes business compliance, formation, and litigation, as well as residential real estate disputes and intellectual property matters. A 2025 graduate of Gonzaga University School of Law, she also earned a bachelor's degree from Grand Canyon University in 2020. When not practicing law, Shelby is probably dissecting the latest gymnastics Code of Points or getting overly invested in a book.

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Soft Shell, Hard Truth: The Realities of Youth Football Safety and the Guardian Cap

By Isabelle Silva

The idea of increased safety in sports, especially contact sports, is no new phenomenon. The 20th Century marked the introduction of mandatory helmet use for college football.[1] Once into the 21st Century, safety equipment not only was mandatory for football players but there became increased awareness and advocacy for player safety when research uncovered the long-term effects of concussions in the sport.[2]

What is currently concerning players, parents, and spectators alike are concussions and related injuries in youth football. In West Virginia, this concern sparked action after a 13-year-old boy passed away from football-related head injuries.[3] Senate Bill 585 ("SB 585") honors this boy, Cohen Craddock, and calls for soft-shell covers on football helmets, such as Guardian Caps, to be required for all youth football players in the state.[4] The legislation would create a grant program in Craddock's name to fund the expenses associated with these helmet covers.[5] It also would form a Student Athlete Safety Advisory Council, to investigate methods for enhancing safety in *all* high school sports.[6] Despite advocacy efforts, SB 585 was never brought to vote in the House.[7] Lawmakers assert though, that it may be introduced again during the next legislative session.[8]

West Virginia is not alone is their efforts. Rhode Island and California have legislation around helmet safety for youth football players. In June of 2025, the Rhode Island House of Representatives approved the bill 2025-H 5088A, which would "mandate the use of a soft-shell helmet cover device that adds a padded, soft-shell layer to the outside of a traditional football helmet, for students participating in Rhode Island Interscholastic League football."[9] This bill was introduced by Rep. Joseph M. McNamara who himself was a football player. McNamara believes in these caps, as "collisions on the gridiron that result in head injuries are extremely dangerous and have even been fatal at the high school level."[10] This bill has made little progression despite the measure moving to the Rhode Island Senate.

In **California, Assembly Bill 708** ("AB 708") was introduced to "allow youth tackle football participants to use safety equipment, including soft-shelled add-ons on football helmets" as they are currently prohibited in the state.[11] The Assembly member who introduced this Bill, Avelino Valencia, emphasizes that the goal here is "to make the game as safe as possible, while also providing the opportunity for parents and young people to play this game if they so choose."[12] Like in Rhode Island, AB 708 has made little progression, and is pending the Senate Appropriations Committee.[13]

So, what about these soft-shell covers, like Guardian Caps? The NFL's research suggests that the cover not only works, but "exceed[s] expectations."[14] The 2022 preseason research from the NFL "saw a more than 50% reduction in concussions versus a previous three-year average (2018, 2019, 2021)" when certain position players "were required to wear the padded shell on their helmets in practices up until the second preseason game."[15] A study at Virginia Tech also produced positive results, citing an "average decreases in concussion risk ranging between 15 and 34%."[16]

Yet, a recent study published in the British Journal of Sports Medicine revealed that these soft-shell helmet covers did not reduce "the risk of sustaining [a concussion] in practice or games."[17] The focus group was made up of over 2,000 high school football players in the state of Wisconsin and researchers tracked the student-athletes during practice.[18] In comparing concussion rates "between the 1,188 players who did not wear Guardian Caps during practice and the 1,451 players who did, researchers found no statistical difference between the groups."[19] Further, of the 64 concussions sustained during practice, about half of the players were wearing Guardian Caps and the rest were not.[20]

This bombshell study, included in full at the end of this article, is "one of very few studies to evaluate how the caps perform in real-world conditions."[21] In addition, as the head researcher points out, "[g]iven the size of our study, it seems that if Guardian Caps did protect against sports-related concussions in high school players, we would have seen that result."[22]

Although soft-shell helmet covers show promise, the real-world data remains inconclusive. Clearly, no single piece of equipment can fully eliminate concussion risk. What lawmakers can do now is advocate for increased flexibility and visibility in youth sports, rather than uniform national standards. Future movement on this issue will likely depend on longitudinal injury data and compliance reporting. Youth football may never be risk-free, but thoughtful policy can make the game safer without sacrificing joy that brings young athletes to the field in the first place.

Isabelle Silva is a third-year law student at The University of New Hampshire Franklin Pierce School of Law, where she is Editor-in-Chief of The Sports Law Review. She combines

her passion for sports with legal expertise, drawing on her background as a former college athlete. With aspirations to navigate the intersection of employment and sports law, Silva is committed to advocating for athletes' rights and shaping fair employment practices within the sports industry.

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[10]Id.
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[13]California Assembly Bill 708, Reg. Sess. (Cal. 2025), https://legiscan.com/CA/bill/AB708/2025.
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[17]Emily Hammer et al., The Association Between Guardian Cap Use During Practices and Sport-Related Concussion Risk in High School American Football Players, 59 BR. J. SPORTS MED. 257 (2025), https://doi.org/10.1136/bjsports-2024-108945.
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[19]Id.
[20]Id.
[21]Id.
[22]Id.

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Federal Court Rules Denial of Parochial Student's Participation in Interscholastic Athletics Violates the Constitution

Takeaways

- A federal court found that excluding parochial school students from district athletics—while allowing home-schooled and charter school students—violates the Free Exercise and Equal Protection Clauses.
- The resulting consent order now requires districts to allow resident parochial students to participate in extracurricular and co-curricular activities unless their own school offers the same sport.
- A new, similar lawsuit against the PIAA signals that this reasoning could soon have statewide implications for eligibility rules affecting parochial school students.

By Matthew Hoffman, of Tucker Arensberg, P.C.

A federal judge from the Middle District of Pennsylvania has ruled the denial of a parochial student's participation in interscholastic athletics violates the constitution.

The impetus of the litigation was the desire of parents of parochial school students, who resided within the State College Area School District (School District) in Pennsylvania, for their children to be permitted to engage in extracurricular and co-cocurricular activities in the School District.

The School District denied the requests, stating that to do so would go contravene a "longstanding practice of not having private school students participate," and that "if we allow

private school students to take part, we could be taking away opportunities from [State College] students."

In July 2023, the parents and the Religious Rights Foundation of Pennsylvania filed a federal suit against the School District in the United States District Court for the Middle District of Pennsylvania. The premise of the suit was that, because the School District permitted home-schooled students and charter school students to participate in extracurricular activities (as required by the Public School Code and the Charter School Law), the plaintiffs alleged that parochial students were excluded from similar participation on the basis of their religious exercise.

In December 2023, the federal court denied the School District's motion to dismiss the complaint. The court held that the School District's practice of excluding parochial students presented cognizable claims of violations of the Free Exercise Clause of the First Amendment to the U.S. Constitution and the Equal Protection Clause of the Fourteenth Amendment. Regarding the claim that State College and its Board violated the First Amendment to the U.S. Constitution, the court concluded that the complaint sufficiently alleged that the plaintiffs would have to choose between their religious beliefs and extracurricular participation. The court said: "denying access to the public benefit of participation in extracurricular activities because of a child's religiously motivated enrollment in parochial school offends the Free Exercise Clause if that denial is discriminatory." Noting that the School District permitted homeschooled and charter-schooled students' participation in activities, the court reasoned that the practice impermissibly burdened the plaintiff-parents' religious exercise. For the same reason, the court concluded that the allegations presented a violation of the 14th Amendment's Equal Protection Clause also survived the motion to dismiss for the same reasons.

In January 2025, the School District agreed to the court's entry of a Consent Order by which the School District agreed to permit parochial students, residing within the School District, to participate in extracurricular and co-curricular activities to the same extent offered to homeschooled and charter school students. The order provides that if the parochial school students have interscholastic athletic sports at their parochial schools, they will not be eligible to participate in those same sports in the school district.

On July 29, 2025, a similar suit was filed in the same federal court by the Religious Rights Foundation of Pennsylvania and several parents of parochial school students against the Pennsylvania Interscholastic Athletic Association (PIAA), presenting the same claims as were the subject of the State College Area School District suit. The complaint asserts that the PIAA does not permit students enrolled in parochial schools to participate in interscholastic athletic activities sponsored by their resident school districts, which the plaintiffs contend violates the Free Exercise Clause of the First Amendment and the Equal Protection Clause of the 14th Amendment.

Practical Advice

The federal court's pretrial decision in the State College Area School District suit concluded that the exclusion of parochial school students from participation in the school district's interscholastic sports, while permitting such participation by homeschooled and charter school students, violates the Free Exercise Clause of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment. While that decision is not binding in other courts, the decision has persuasive value that could be adopted by other courts in similar challenges. Further, the reasoning of the court's decision likely will yield a similar result in the recent suit filed against the PIAA to challenge the same general rule and have a state-wide impact.

Religious Rights Foundation of PA, et al. v. Pennsylvania Interscholastic Athletic Association, Case No. 4:25-cv-01406 (M.D. Pa., July 29, 2025).

Ohio Judge Rules Against NIL Compensation Ban

Takeaways

- An Ohio judge granted a temporary restraining order allowing high school athletes to receive NIL compensation, finding that the OHSAA ban may violate constitutional and antitrust protections.
- The ruling highlights growing legal pressure on states that still restrict NIL rights, noting that athletes in 44 other states already have access to such opportunities.
- Schools should prepare for potential policy changes, as OHSAA has already moved forward with an NIL bylaw referendum that schools will vote on within the next 45 days.

By Holt Hackney

A Franklin County (Ohio) judge has ruled that high school athletes in that state can be compensated for their name, image, and likeness (NIL), after a plaintiff claimed that he had suffered extensive losses in NIL deals because of an Ohio High School Athletic Association (OHSAA) policy that banned such compensation.

The impetus for the lawsuit was the allegation of Jamier Brown, a standout wide receiver who committed to play for the Ohio State Buckeyes beginning in 2027, that he had lost more than $100,000 in NIL deals because of the policy.

Brown's attorney, Luke Fedlam, claimed the restriction violated his client's Constitutional rights as well as caused other athletes to miss out on significant financial opportunities.

"These are unique and unrecoverable harms to JB's career, his reputation, and his constitutional rights," Fedlam said during a court hearing. "When a student-athlete misses out on a six-figure opportunity, it's a direct impact to the family."

Fedlam claimed that Ohio is one of only six states that still limit NIL rights for high school athletes.

Brown, himself, elaborated in an Instagram post, writing that "I want to be able to use my name, image, and likeness to help my family financially and get the extra after-school academic help and football training that can help me maximize my potential. NIL can make that possible for me and many other student-athletes in Ohio."

In his argument, Fedlam suggested to the court that permitting NIL for high school athletes does not challenge the integrity of the game or schools.

He added that "OHSAA's rule is thus arbitrary and inconsistent."

"Also, under violation of Ohio Anti-Trust Laws, the Valentine Act, the NIL prohibition forecloses an entire market for NIL services in the State of Ohio," he said. "It's an unlawful restraint on trade under the Valentine Act. OHSAA prevents free and fair economic competition and harms both athletes and local businesses. JB faces immediate non-compensable harm. There are lost NIL opportunities that we discussed in our brief, in our complaint, and it's due to timing, visibility, and athletic season."

The arguments were well-received by the Common Pleas Judge, who granted the temporary restraining order.

"The court finds the arguments relating to violation of equal protection and due course of law very compelling," she wrote. "Other high schools, not necessarily other high school students that are not associated with the Ohio High School Athletic Association, could have the ability to participate in NIL opportunities in the State of Ohio. There are similarly situated students in 44 other states throughout this country who may participate in NIL activities. Whether or not JV is being irreparably harmed if this order is not granted, the court finds that he would be."

Further, she found that there would be potential irreparable harm to Brown's future and called the OHSAA's policy outdated.

"(The plaintiff) is still a high school amateur athlete and he should be able to participate in those opportunities provided by NIL during this time," she wrote. "The court does find that granting this will allow for expanded opportunities for high school students and youth across the state of Ohio and there are benefits in that."

The court made the comparison with non-athlete students, who are allowed to profit from their talent.

"Allowing this temporary restraining order will align this state's policies for high school students with a majority of the other states across the country," she wrote. "With that being said, the Ohio High School Athletic Association is temporarily enjoined from enforcing Section 4-10-1 of its bylaws."

In coverage of the decision, it was reported that in 2022, OHSAA member schools rejected the first NIL proposal by a margin of 538 to 254.

OHSAA Executive Director Doug Ute responded with the following statement:

"We anticipated a lawsuit would come any day and our board of directors has already approved the language of an NIL bylaw referendum for our schools to vote on. We are thankful for the 45-day window so our schools will have time to learn more about this referendum and to vote on our proposed language for NIL."

Texas High School Sports Faces Major Change — Exchange Students Banned from Varsity Teams

Takeaways

- Beginning in 2026–27, foreign exchange students in Texas will be barred from all varsity competition, remaining eligible only for sub-varsity sports.
- The UIL adopted the rule unanimously to address concerns about competitive balance, recruitment practices, and protecting opportunities for Texas-resident athletes.
- The change may reduce participation in exchange programs and signals a broader shift toward tighter rules on athlete mobility and eligibility in Texas high school sports.

By Holt Hackney

Beginning with the 2026–2027 school year, foreign exchange students will no longer be eligible to compete in varsity sports under UIL-sanctioned athletics across Texas public high schools, the UIL announced this fall after a 2025 legislative council vote. The decision, driven by concerns over "competitive balance and fairness," marks a significant shift in policy for one of the largest state high-school athletics governing bodies in the United States.

The UIL's Legislative Council — made up of 32 public school administrators — passed the amendment during its Oct. 27–28 meeting in Round Rock. The measure passed unanimously. Under the new rule, foreign exchange students will remain eligible for sub-varsity (junior varsity, freshman) sports, but will be barred from varsity competition.

The change still requires formal adoption by the state Education Commissioner before it becomes official. UIL officials say the move is meant to protect opportunities for Texas students and preserve competitive balance statewide.

Supporters of the measure argued foreign exchange students—many arriving on J-1 visas through approved exchange organizations—could create an uneven playing field, particularly in smaller school districts. Under the previous rules, such students could receive waivers allowing varsity eligibility. Critics contended these waivers were being used to quickly field competitive athletes with little connection to the local community.

Robert Lee ISD Superintendent Aaron Hood expressed the argument succinctly: "Our Texas kids are not allowed to go to a neighboring town without moving there and play at the varsity level — but a student can fly in from abroad and play immediately." He said some foreign exchange students even advertise their height, weight, and playing position on social media to attract interest from Texas coaches.

Other supporters, including Greg Poole, superintendent of Barbers Hill ISD, indicated they hope the foreign-exchange ban could pave the way for further tightening of "open enrollment" policies in districts that draw students from across county or district lines.

Not everyone agrees with the decision. Advocates for exchange-student programs warned that the ban could dampen international cultural exchange and limit positive experiences for students coming to the United States.

A long-time host parent with the exchange firm International Cultural Exchange Services noted that while she understood administrators' concerns, excluding students from varsity sports was "sad," especially for those who came to experience American high school tradition. "Playing on a varsity team — the crowd, the atmosphere — is a once-in-a-lifetime experience for many kids," she said.

Another former exchange student recounted how playing on a varsity basketball team at an Austin high school helped him integrate socially and academically during his year abroad — calling it "the highlight" of his time in the U.S. Without varsity eligibility, he said, he'd likely have skipped the exchange program entirely.

Critics warn the ban may also reduce demand for exchange programs in Texas, complicating cultural exchange efforts in many communities — especially smaller districts where such programs had helped bring diversity and global perspectives to school life.

The new rule must still be approved by the state Education Commissioner before taking effect in 2026–27.

Supporters say the change will help preserve fairness — but opponents express concern that it penalizes all foreign exchange students for the misconduct or recruitment practices of a few.

The rule change represents more than just an eligibility adjustment — it reflects a broader shift in how Texas schools view athlete recruitment, mobility, and fairness in high school sports. For years, the UIL allowed certain waivers to foreign exchange students under strict eligibility criteria: valid J-1 visas, certification through an approved exchange program, four-year high school attendance limits, and no advanced prior training or national-level competition.

The blanket ban could raise questions about other forms of "outsider" participation: open-enrollment transfers, nonresident students, and other transfer cases. Some superintendents have already signaled support for future changes.

CONTRACT-LESS

Continued from page 1

in March 2025. He sued Keith Hayashi, Superintendent of Hawaii State Department of Education; "Complex Area Superintendent Samuel Izumi", who terminated him; Tavian "Manoa" Hallums, the student who complained about Carvalho; Manao's father, Kalani Hallums, "Kalani"; twenty Doe Defendants; and ten Doe Agency Defendants. He claimed a breach of contract and defamation. Carvalho sought both a temporary restraining order and a preliminary injunction to allow him to immediately resume coaching. The Court denied both motions, because Carvalho failed to establish a likelihood of success on the merits of either claim, there was no showing of irreparable harm, nor would an injunction serve the public interest. (Carvalho v. Keith T. Hayashi, Hawaii Circuit Court, First Circuit, Civil No. 1CCV-25-00011368 (JJK), 2025 Haw. Trial Order LEXIS 323 *; 2025 LX 320255 (8-1-2025)).

Court Proceedings

Carvalho filed the Complaint on July 14, 2025. The Court held an in-person conference on July 18, 2025. Hayashi, and Izumi, "collectively 'State Defendants'" filed an opposition to the motions on July 25, 2025. The hearing took place on July 28, 2025. Carvalho called five witnesses. The State called one.

Opinion

The Court had jurisdiction pursuant to Hawaii Revised Statute Section 603-21.5 and venue was proper due to Section 603-36. Hayashi failed to appear as a witness for Carvalho, "since he was not subpoenaed to appear." The Court made eighty-four findings of fact. Most are a single sentence.

Findings of Fact

Manoa played varsity football under Carvalho during the 2022-2023 and 2023-2024 seasons. The State Department of Education classifies all head coaches, including Carvalho, as a "causal hire."

Every coach must annually re-apply by submitting a signed form, undergo an annual background check, and if hired, sign an employment contract. Each contract is good for a single year unless the coach resigns or is terminated. A coach can be terminated for "cause", such as a "material breach" of contract, "inappropriate conduct" or insubordination. The Coach is required to become familiar with and adhere to the Athletic Handbook and policies. In 2022 and 2023 he signed the employment contract that was countersigned by Athletic Director Yamagata.

In December 2023, Carvalho learned that Manoa filed a complaint with the Department of Education. The investigation began in January 2024. The Department's Human Resources Director, Nanette Hookano, conducted the investigation. She interviewed eighteen witnesses. Carvalho declined her request for an interview. Hookano completed the investigation in November 2024 and gave a copy to Carvalho and Izumi. The report recommended that Carvalho be held accountable. During the investigation, Yamagata offered Carvalho a written contract for the 2024 season. Yamagata executed the contract, but Carvalho did not. He was allowed to coach that season. The employment period ran until June 30, 2024, and he received his full salary.

Yamagata met with Carvalho in January 2025 although he was aware that Carvalho had not yet met with Izumi. Carvalho was told that was if he was to return, he would have to change his offensive coaching staff. At the hearing, Yamagata testified that he did not offer Carvalho a contract for 2025, nor were any other employment terms discussed.

Carvalho met with Izumi in February 2025. By letter dated March 31, 2025, Izumi informed Carvalho that after reviewing the HR report, its supporting documentation, and Carvalho's statements during their meeting, he was terminating Carvalho. Carvalho's defamation claim was based on the March 31, 2025, letter, because Izumi wrote that Carvalho "was not remorseful, not respectful and that Plaintiff created a hostile environment, which was false."

Izumi also gave the letter to the school principal, the Education Department's Director of Human Resources, and the Office of Talent Management. This "followed protocol." A copy was also sent to Carvalho's prior attorney. Carvalho agreed that giving the letter to the school principal and his former attorney was appropriate.

Carvalho was a public figure, given "his success on the field and his sterling reputation in the community." He testified that it would be "speculative to state what the impact on the team" would be if he did not coach that season. However, he contended that the "public interest" was limited to the players and those seeking his return as a coach.

Carvalho assumed that he had been hired for the 2025 season because Yamagata "had performed his evaluation." Yamagata testified that Carvalho was not given a written contract, did not attend the annual July mandatory meeting, nor was he invited to attend. He was not provided with the annual mandatory packet, and another person was hired to be the head coach.

Conclusions of Law

This section contains seventy-three separately numbered paragraphs.

I. Standard of Review

Carvalho moved for both a temporary restraining order and a preliminary injunction to prevent his termination "without a showing of adequate and just cause" and without the opportunity to contest the termination, present evidence, examine witnesses and make "arguments [on] his own behalf." He also sought an injunction to "enjoin and restrain the Defendants" and others "from continuing to utter, publish and distribute defamatory statements about Plaintiff."

It was an uphill battle. "An injunction is an extraordinary remedy. Morgan v. Planning Dept., Cnty of Kauai, 104 Hawaii 173, 188, (2004)." The Court evaluates (1) "whether the plaintiff is likely to prevail on the merits; (2) whether the balance of irreparable damage favors the issuance of a temporary injunction; and (3) whether the public interest supports granting the injunction. Life of the Land v. Ariyoshi, 59 Haw. 156,158, (1978.)"

Carvahlo sought reinstatement of his position as coach. Such an injunction "compels one to perform an affirmative act to do or undo a previous act. Stop Rail Now v. DeCosta, 120 Hawaii 238, 244, (App, 2008)." Mandatory injunctions that go beyond maintaining the status quo are "particularly disfavored and should not be issued unless the facts and law clearly favor the moving party." Stop Rail Now, 120 Hawaii at 244, quoting Wahba, LLC v. USRP (Don), LLC, 106 Hawaii, 446, 472 (2005)." The injunction to enjoin further defamatory statements is a "prohibitory injunction" and is not subject to the higher standard. Carvalho did not seek injunctive relief against Manoa or Kalani.

II. Likelihood of Success on the Merits

A. Breach of Contract Claim

The Court found that Carvalho had not "established" a likelihood of success on the merits. His breach of contract claim required him to "prove" the "following elements: (1) The existence of the contract; and (2) Plaintiff(s') performance [unless excused]; and (3) Defendant's('s) failure to perform an obligation under the contract; and (4) Defendants'(s) failure to perform as a legal cause of damage to plaintiff(s'); and (5) the damage was of the nature and extent reasonably foreseeable by defendant(s) at the time the contract was entered into. Hawaii Civil Jury Instruction No. 15.8."

The "the pivotal question here is whether a contract existed for Plaintiff to coach the KHS football team for the 2025-2026 season." In the absence of that contract, "the Court cannot afford Plaintiff the relief he seeks". Carvalho failed to convince the Court that there was a contract. Carvalho did not introduce into evidence the supposed 2025 contract, failed both to complete a reapplication process undergo a background check. Thus "no express contract exists."

Carvalho insisted that he had an oral contract based on the January 2025 meeting during his post season evaluation meeting. Yet there "is no evidence" that "the parties discussed contract terms sufficient to constitute a valid and binding offer." As a result, there "was no "meeting of the minds" nor "mutual assent to any terms." Yamagata testified that at "no time" did they "discuss contract terms" and Carvalho did not sign a new contract. "Acccordingly, the Court concludes that no oral contract exists" for the 2025 season.

Similarly, no employment contract "can be implied" for the 2025 season. An implied contract need not be expressed, but an obligation may be created "where a person performs services for another, who accepts the same" but where it was not intended to be gratuitous, or based on the other person's request. Durette v. Aloha Plastic Recycling Inc., 105 Hawaii 490, 504 (2004)." The plaintiff must show either that the defendant requested such services or assented to receiving the services "under circumstances negativing any presumption that they would be gratuitous."

Nothing suggests that the Defendants requested Carvalho to serve as coach for the 2025 season. "In fact, AD Yamagata's testimony establishes the opposite." No contact terms were discussed during any post season meetings. Carvalho was not invited to the mandatory meeting where contracts were handed out and was not offered a contract. It is incontrovertible that the school hired someone else to coach the team in 2025. The Court "cannot conclude that an implied contract" existed.

Consequently, the Court could not find "that Plaintiff is likely to succeed on the merits of his Breach of Contract claim." Carvahlo insisted his termination was improper because it failed to "consider Plaintiff's own statements, public opinion or inconsistencies in how Manoa stepped down as team captain". For this purpose, it did not matter, "because a non-existent contact" cannot be breached. Moreover, even if the termination was improper, "the only contract in effect at the time of the termination (March 31, 2025) was the 2024 Employment Agreement, which would have expired on its own terms on June 25, 2025."

B. "Plaintiff Has Not Established a Likelihood to Prevail on the Merits of Defamation Claims Against State Defendants

Carvalho sued the State Defendants in both their offi-

cial and individual capacities. This had an "oops" from the beginning. "The defamation claim against State Defendants in their official capacities is a claim against the State and is therefore barred by HRS §§ 662-2 and 662-15(4). See Makanui v. Dept' of Educ., 6 Haw. App, 397, 406 (App. 1986)." He cannot demonstrate a likelihood of prevailing on claims that are barred by statute. (These statutes will also apply to the Doe Agency Defendants.)

This left him with claims against the same defendants but in their individual capacities. The only supposedly defamatory statements identified by Carvalho were contained in the termination letter sent by Izumi on March 31, 2025. In Hawaii, this tort has four elements: a false or defamatory statement concerning another, an unprivileged publication to a third party, negligence if the plaintiff is a private figure, actual malice if the plaintiff is a public figure, and "either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. Nakamoto v. Kawauchi, 142 Hawaii, 259, 270 (2018)."

The problems commenced from there. The termination letter was only sent to Carvalho, the school principal, the Education Department's Director of Human Resources, and the Office of Talent Management. Carvalho failed to prove that the State Defendants made false statements about him to a third party. There was no showing that sending the letter to the Principal or Human Resources was not privileged. "Without more, Plaintiff cannot sustain a defamation claim against State Defendants in their individual capacities." Such liability requires "clear and convincing proof of malice or improper purposes." This is determined by the "reasonable man standard" with "clear and convincing proof."

It was "unlikely" that Carvalho would prevail against the Superintendent as there was no evidence that the Superintendent published it to anyone. The only identified communication was sending the investigation report to Carvalho's counsel "which Plaintiff concedes was appropriate." He was also unlikely to prevail against Izumi "as uncontroverted evidence shows the termination letter (and the investigation report) were disclosed only to (state personnel) who required access in their official roles." This "was a privileged publication as part of his official duties." There was no evidence that Izumi acted "unreasonably and therefor with malice to undermine the State Defendants' qualified privilege defense."

Furthermore, Carvalho qualified as a "public figure" and therefor "must demonstrate 'actual malice' by clear and convincing proof. See Rodriquez v. Nishiiki, 65 Haw. 430, 438 (1982); Gertz v. Robert Welch, Inc., 418 U.S. 323, 342 (1974)." The Court was "not persuaded by Plaintiff's self-serving allegation that the State Defendants acted maliciously." Community members had sent in letters of support for Carvalho, but they "lacked personal knowledge as to the relevant interactions between Plaintiff and Manoa." The Court did not find any evidence that the termination letter was publicly disseminated" or that the report itself "rises to the level of actual malice." He failed to demonstrate he would prevail on the defamation claim and consequently failed to satisfy the first prong of the injunctive relief standard.

III. Irreparable Harm

The second prong is whether the balance of irreparable damages favors the issuance of an injunction. Financial loss "by itself does not constitute irreparable harm." An injury "is irreparable where it is of such a character that a fair and reasonable redress may not be had in a court of law. Penn. v. Transportation Lease Haw., Ltd., 2 Haw. App. 272, 276 no.1 (App. 1981)." Carvalho asserted that losing his job in these circumstances "will permanently affect (his reputation and likely prevent (him) from ever again coaching football in Hawaii." This is speculative "because Plaintiff testified that he has not attempted to seek employment" with another school so no application had been rejected. He "appears to suggest" that the "irreparable harm is borne on the students and the Kahuku community who/which are denied his leadership towards success, but even Plaintiff admitted at the evidentiary hearing that such a notion was speculative in nature." Having some public support does not constitute irreparable harm.

IV. Public Interest

This prong requires a showing that the requested injunction serves the public interest. Carvalho insisted that this was shown by the public opposition to his termination and that there was evidence that he had a "good reputation." However, requiring the school to abide by contract terms "where no contract exists, and to force the school to breach the contract with its current head football coach, does not serve the public interest." The Court found "on balance" that "the public interest does not tip in favor of either party." The Court denied the motions for a TRO and a preliminary injunction.

Editorial

Carvalho's camp has been vigilant on social media. He lost the motions in court but has been active trying to win in the court of common opinion. Counsel can expect to see an ever-increasing usage of social media and must take this into account in jury selection.

It is hard to glean the underlying facts relating to Manoa's complaints, but it is easy to see that Carvalho's two claims face serious challenges. All is not well when after an evidentiary hearing, the judge opines that a party is not likely to prevail on the merits. Judges are probably not impressed by

claims that are barred by statute. Lawyers should counsel coaches to exercise extreme caution when confronting a student who has filed a complaint, and schools can expect to be sued by a fired coach, or by the student if the coach is not fired.

The motion with its relative thin evidentiary support may cause some to wonder what were the odds that the Court would grant injunctive relief. After the ruling, Carvalho's counsel admitted to the press that "it was a long shot." ("Attorney for former Kahuku football coach says battle not done." Christian Shimabutu, Aloha State Daily, August 4, 2025). There was no shot. It takes a contract to bring a contract claim, and privileged, and legally required communications rarely forms the basis of a successful defamation suit. On the other hand, Carvalho now has a road map to buttress his Complaint. This season he has the time.

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COURT

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on athletes who transfer schools during their high school careers – sometimes costing them an entire year of participation. While intended to prevent improper recruiting (e.g., poaching) and maintain competitive balance, these rules also impose a heavy burden on young athletes and their families who might be seeking better academic environments or greater safety for students who have endured coaching abuse, bullying, or hazing.

Similarly, high school athletic associations often impose high evidentiary bars on athletes and their families demanding proof of documented extenuating circumstances to grant relief from transfer penalties.

From a lawyers' perspective, when an association's initial review denies an athlete's petition, the athlete must then show that the denial was based on a clearly erroneous application of the rules – a high bar that makes reversal of these initial determinations on appeal before state associations exceptionally rare.

This was the situation confronted by Shumaker, Loop & Kendrick attorneys Bennett Speyer, Bart Lambergman and Robert Boland in representing Kayden Zoeller, a high school junior football player who transferred from Perrysburg (Ohio) High School, a public high school in January 2025 to St. John's Jesuit, a private Catholic collegiate prep program in neighboring Toledo, Ohio.

The Case

Zoeller had begun his freshman year at Central Catholic High School. His family, who operate several personal training and fitness facilities in the Toledo area, struggled with the transportation demands and were encouraged by Perrysburg's head football coach, also a close friend of Zoeller's father, that returning to Perrysburg would offer a supportive environment. The coach assured them that the bullying Zoeller had endured during middle school would not continue in high school.

Despite these assurances, the bullying re-emerged quickly and took a significant emotional and personal toll on Zoeller during his sophomore season. Although some of the incidents appeared modest at first, the pattern deepened. Zoeller was repeatedly ostracized, mocked and excluded by teammates. His parents sought a variety of supportive mechanisms to help him, recognizing the signs of distress.

But on October 14, 2024, during a non-contact walk-through practice, matters escalated dramatically. Zoeller was hit from the blindside, knocked to the ground by another player, who then laid on top of him and celebrated. The assaultive hit – an act outside the scope of normal contact in a football – occurred in the full view of his coaches, teammates, and his father. No corrective action was taken.

The Shumaker attorneys suggested that the case of Hackbart v. Cincinnati Bengals, Inc., 601 F.2d 516, 4 Fed. R. Evid. Serv. (Callaghan) 1042 (10th Cir. Colo. June 11, 1979) as instructive. It establishes that an act on a playing field, even in a violent game, that exceeds the scope of consent, could constitute battery. Additionally, many jurisdictions recognize the possibility of criminal liability for assaultive conduct during sport, even if charges are rarely pursued.

By late fall, the cumulative stress became overwhelming. Zoeller's parents made the difficult decision to withdraw him from Perrysburg, and transfer him mid-year to St. John's Jesuit High School & Academy for his health and safety.

The OHSAA Transfer Consequence

Under OHSAA Bylaw 4-7-2, once a student transfers from one school to another the student is subject to this **Transfer Consequence** resulting in ineligibility as contained in the Bylaw.

"If a student transfers at any time after commencing the ninth-grade year, the student shall be ineligible for all OHSAA

tournaments in those sports in which the student participated during the 12 months immediately preceding this transfer. In addition, the student shall be ineligible for all contests at all levels AFTER the first 50% of the maximum allowable varsity regular season contests have been competed in those sports in which the student participated during the 12 months immediately preceding this transfer. The transfer consequence shall remain in effect until the one-year anniversary of the date of enrollment in the school to which the student transferred, at which time the student is no longer considered a transfer student."

OHSAA provides 12 exceptions for relief from the transfer consequence, including changes in residence, custody, school discontinuation of a sport, transfer out of a poor performing school, displacement, the death of a parent, and independent status.

Two exceptions were central to Zoeller's case, the first for a student who is suffering bullying in the prior school (Exception #7 or transfer due to documented harassment) or when a student has been subjected to the criminal action of adults at the prior school district (Exception #12).

Both exceptions impose a multi-pronged evidentiary requirement. Families must present documentation, reports, investigations, timelines, and verification from school personnel. And when an initial reviewer denies relief, the family must meet the high burden of showing that denial was clearly erroneous.

Zoeller's initial application for relief from the transfer consequence was denied, setting up the appeal.

Reliance on Reporting – And What Went Wrong

Zoeller's father, Keith Zoeller, had a close personal relationship with the Perrysburg head coach. That trust understandably led the family to communicate concerns informally rather than through strict formal reporting channels. Their text messages with the coach documented distress, fear, and the October 14 incident, but lacked the formal complaint structure districts typically rely on to trigger investigations.

Because the family voiced their concerns cooperatively rather than adversarially, Perrysburg treated the complaints as informal and did not create documentation, open a report, or initiate an investigation. As a result, the bullying Zoeller endured – despite being real, repeated, and harmful, went unrecognized on paper.

This failure implicated both Exception 7 and 12, according to Shumaker attorney Robert Boland, who served as Athletics Integrity Officer at Penn State following Penn State's failure to report serious child abuse, which led to a toughening of national laws around child abuse and adults as mandated reporters. Boland explained during the appeal hearing that Perrysburg's failure to report the bullying under Exception 12 effectively prevented the Zoeller's from satisfying the documentary requirement of Exception 7.

The appeals board ultimately agreed, unanimously concluding that Kayden had established a documented record of bullying, even if the district failed to properly memorialize it.

A High Standard, But Empathetic Panel, And Lessons Going Forward

Boland praised the OHSAA "for the fairness of the hearing process and the concern the appeals board showed for Kayden." He suggested the panel of retired educators demonstrated great care for reaching an equitable outcome, hearing from multiple witnesses and considering all evidence.

As Boland noted, "An appeal like this is very difficult and rare to win, and we're thrilled with the result," further noting how "Kayden's case reflects how these rules can impact young athletes."

This case also highlights essential lessons:

- Document early. The transfer rules place a significant burden of proof on families to document their facts before undertaking a transfer, even an emergency one. Families should put every concern in writing – emails, reports, or formal notifications. In that regard, families should consider involving counsel early as attorneys can help illuminate the required evidence.
- Report early. Even informal conversations should be followed by written confirmation.
- Follow up. Maintain written records of efforts to ensure that the school logs the concern.
- Never rely solely on goodwill or informal assurances. Personal relationships, particularly with coaches, cannot substitute for written documentation.

Finally, and most importantly, Boland said Zoeller is now thriving academically and personally at St. John's Jesuit. He returned to football practice the day after the hearing, played in the team's final three games, and is "receiving early recruiting interest from multiple colleges."

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