The Problem of the Underperforming Athletic Coach

A GUIDE FOR BOARD MEMBERS AND ADMINISTRATORS
This is what people tell me

“He’s just not a leader.”
This is what people tell me

“The kids don’t want to play for her.”
This is what people tell me

“The community has lost confidence in our program.”
This is what people tell me

“Communication with parents is poor.”
(Sometimes) people tell me

“The coach uses profanity!”
This is usually code for

OUR TEAM ISN’T WINNING

- Can’t get new kids . . . so . . .
- Better get a new coach
Sometimes people say

- We just hired him last year—can’t we get rid of him easy?
But! (Maybe!) He’s Probationary! Isn’t that a thing?
Debunking the 30 year old Myth

- Since the mid 1980s, it has not been possible to “get rid of” a teacher or coach who is “probationary” without full due process, including documentation, reasons in a letter, and opportunity for a board hearing.

- At the district/board level, the process is the same regardless of whether the teacher/coach has worked for you 30 days or 30 years,
Who isn’t a “teacher?”

- Employees whose job doesn’t require a teaching license (technology, transportation, facilities)
- Job title of superintendent or assistant superintendent
There is no easy button to make teachers or coaches go away!

- “Probationary” has meaning *inside* TESS for how you assess
- “Probationary” in the TFD Act has no relevance to documentation or anything done at the district level for dismissal or non-renewal
People in the community think (and people think wrongly)

- That the best way to deal with a problem is to go to the “top”—to the board (WRONG)

- That since colleges fire coaches all the time, HS coaches can be fired too. (WRONG)

- That the Easter Bunny magically drops decorated eggs off at your house (WRONG)
People in the community think
(and people think wrongly)

- That any board member can fire any employee on the spot (WRONG)
- That any board member can write up any employee (WRONG)

THINKING WRONG THINGS DOESN’T MAKE THEM TRUE!
The root of the problem

- Every year, the following ritual is observed
  - Superintendent’s contract is considered in January
  - Principals are rehired in February
  - Teachers and coaches are rehired in March
  - Classified employees are rehired in April

- Every year, board members call me and want to “make a statement” by not rehiring the coach, to make the community happy
The problem

Except for the superintendent’s contract (and if you have one, the assistant superintendent) all of the rest of this is FAKE WORK.

Worse, this FAKE WORK tempts you to get your board in trouble.

Sometimes, board members determined to do a good job demand to see teacher evaluations, which is a legal liability nightmare.
STOP THE MADNESS!

DEMAND AN END TO FAKE WORK!
FAKE WORK NOT YOUR FAULT!
This is NOT YOUR FAULT

Everything we ever ask a board to do at a board meeting is REAL WORK, except for this ONE THING, which is FAKE WORK. When 99% of your work is real, it is reasonable for the board and the community to mistakenly believe that the “rehire ritual” is also real work.

The problem is that it is easier to keep putting it on the agenda than to explain why you are going to stop doing it.
WHY are boards doing FAKE WORK?

- Culture, possibly an old outdated policy (not our policy!)
- Tradition, and a desire to publically recognize staff for a good job
- Boards and superintendents (who mostly actually do know better) don’t know how to stop
- The law essentially gave teachers automatic and eternal rehire in 1983.
- The law essentially gave classified employees automatic and eternal rehire in 1991.
- You people have been doing FAKE WORK for over 30 years!
Failing to rehire the coach does not make the coach go away (which is what you secretly want)

Failing to rehire the coach guarantees him a job for life (which is your worst nightmare)

WHY?

Your MINUTES will be used against you to prove you were prejudiced against him and he did not get the fair and impartial hearing the law promised him

Your entire board can be questioned under sworn oath about who said what to whom in executive session about the coach, and there is NO WAY to escape having to tell the truth (or get charged with perjury for lying)
Why has no one ever mentioned this?

- Because it is AWKWARD!
- Superintendents think boards like to do this
- Superintendents worry teachers might be upset if this stops
- Superintendents don’t want to upset the board close to their own renewal time
- It is easier to pretend than to do the hard work of explaining (human nature)
WHY are they hard to fire for cause?

- Person who does the documentation probably need to be a TESS evaluator and a district employee (can’t outsource evaluation)
- TESS evaluator would also need extensive knowledge of coaching and sports
- This will take a minimum of 20 to 30 hours a week during the athletic season, as every practice and every game will need to be attended, plus extra time for analysis, record keeping and drafting of write ups or growth plans.
- All the people who happen to have these qualifications are REALLY BUSY and frankly, do not have the time to spend the majority of their time at work on just one project.
Any teacher (legally, coaches are teachers) has a legal right to be put on written notice of job problems

The burden is on the district to fix the teacher or the coach, not on the teacher or the coach to fix themselves

The employee needs to be given a reasonable opportunity to improve

If you had a bad basketball season, the “reasonable opportunity to improve” is going to be the basketball season for the 2019-2020 school year, which is a LONG TIME.
So—What About Reassignment?

- To what? What are the odds the coach will voluntarily sign a new contract?
- The money has to be the same.
- The power has to be the same.
- The prestige has to be the same.
  - Are you going to swear, under oath, that cross country is exactly as special as head basketball coach?

- A court case says we can’t assign them to an administrative job like principal to get them out of coaching.
Manilla Case


- Manilla SD had a coach
- Coach wasn't satisfactory; they were unhappy
- Their solution: Reassign to run the A-School, $4000 coaching stipend changed to $4000 A-School stipend. Mere reassignment as permitted by 6-17-303.
- Coach’s argument: not a reassignment per 6-17-303, it was a nonrenewal without due process under the Teacher Fair Dismissal Act.
- It wasn’t under the same terms and conditions as previous contract
- Outcome: District lost, coach won, even though the money was the same.
Why not just take the duties and leave the money alone?

- This violates Article 14, Section 2 of the Arkansas Constitution
- If the auditor catches you paying someone with school funds for work they are not doing, EVERYONE is in BIG TROUBLE.
- There is a myth that there is some magic number of years that you can pay someone for not doing something and then you can just drop it from their contract—this is FALSE!
- Anytime you take money or days from a contract, legally, it has to be a partial termination or a partial non-renewal, there has to be a superintendent issued letter to start the process, and there must be documentation and REASONS.
Can the board bypass the superintendent to “Get it done?”

- Not legally. Any attempt will rain legal liability down on your district and your legal liability policy probably won’t pay for your defense.
  - Legal liability insurance won’t pay when you do bad things on purpose, only by accident.

- The superintendent is the gatekeeper to terminations and non-renewals for 100% of your contracted employees.

- In many cases, the superintendent realizes that it isn’t the coach, its your talent pool, the money you do not have to spend on a really good program, the competition from other activities, or your competitive environment.
Are you mad about this?

- Talk to your state senator and state representative
- They have the power to fix this, but it would take super powers!
- A possible suggested legislative solution: Automatic renewal below the superintendent/assistant superintendent level should only apply to the base, 190 day teacher contract—all stipends, multipliers and additional days should require affirmative superintendent recommendation and board action to continue into another contract year.
- However, this would be politically difficult, to say the least
Stop. What’s that?
Wait a minute. Is that . . . An elephant?
The elephant in the room
But, why do I know of districts that did this and didn’t get sued? This is the elephant in this room

- Do you know people who drive without seat belts and are still alive?
- “Coach Culture” makes coaches reluctant to go to court
- Many think that suing a school district will make them unemployable as a coach
- This is why districts can take big risks and get by with it—coaches let them
- There are no promises you will get lucky if you take this risk
- My prediction: coaches who get reassigned to “less special” sports will win if they sue.
Recommendations

1. Stop unnecessary rehiring. No more fake work.
2. Direct 100% of complaint traffic to administration.
3. Remember, coaches, principals and most staff members with teaching licenses are legally protected by the Teacher Fair Dismissal Act if the job they do requires a teaching license.
4. Encourage administration to get training on how to address job performance problems within legal limits, but effectively.
Questions?

THANK YOU!