Abusive Coaching: Using the Legal System to Protect Adolescent Athletes

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INTRODUCTION

Adolescent participation in athletics provides many benefits for participants including improved academic performance, higher self-esteem, and better lifelong health outcomes.[1] Additionally, participation in adolescent sports continues to grow;[2] during the 2022-2023 school year, nearly eight million individuals participated in high school athletics.[3] Despite the perceived psychological benefits of participation in sports,[4] athletes and non-athletes continue to experience mental health issues at roughly the same rate.[5] This suggests that some aspects of athletic participation may actually cancel out the psychological benefits of athletic participation by having harmful effects on the mental health of young athletes.[6] For example, approximately sixty percent of high school athletes suffer increased stress levels due to their participation in sports.[7] Adolescent athletes are also increasingly developing serious mental health issues, such as anxiety and depression.[8] Many aspects of athletic participation create the potential for mental health issues in youth sports, including the harmful effects of abusive coaching and the inability of school administrations to effectively address this issue.[9]

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1. Tracey B. Carter, *It Is a Mindboggling Dilemma: To Play or Not To Play Youth Sports Due to Concussion Risks?*, 67 CATH. U. L. REV. 1, 7–9 (2018).

2. *See 2022-23 High School Athletics Participation Survey*, THE NAT'L FED'N OF STATE HIGH SCH. ASS'NS (Sept. 8, 2023), https://www.nfhs.org/media/7212351/2022-23_participation_survey.pdf [https://perma.cc/PN8Y-GTFN].

3. *Id.* at 56.

4. *See* Carter, *supra* note 1, at 7–9.

5. Maureen A. Weston, *The Anxious Athlete: Mental Health and Sports' Duty and Advantage to Protect*, 13 HARV. J. OF SPORTS & ENT. L. 1, 16 (2022).

6. *See. id.* at 15–16.

7. Tavish Ward, Thor Stead, Rohan Mangal & Lath Ganti, *Prevalence of Stress Amongst High School Athletes (v2)*, HEALTH PSYCH. RSCH. (Feb. 20, 2023), https://pmc.ncbi.nlm.nih.gov/articles/PMC9946800/ [https://perma.cc/NWW5-7T7W].

8. *Id.*

9. Michael Mignano, *Under-Acknowledged, Yet Common: Preventing Emotional Abuse in Sport*, MICH. STATE UNIV. (Jan. 31, 2019), https://education.msu.edu/sport-coaching-leadership/how-to/under-acknowledged-yet-common-preventing-emotional-abuse-in-sport/ [https://perma.cc/478E-2PGB].

Traditionally, coaches have used an aggressive, commanding coaching style toward athletes[10] resorting to anger and fear to push them to perform at their best.[11] This "old-school" approach to coaching includes physically assaulting, belittling, and threatening players to achieve results.[12] These practices are supported under the guise of producing mentally tough athletes through tough love.[13] However, recent studies suggest that the use of these "old-school" coaching tactics leads to increased mental health issues, including issues with anxiety, decreased self-esteem, eating disorders, and depression.[14] Additionally, the psychological effects of the abusive coaching persist even after individuals leave the sport.[15] These studies are part of a broader movement to push back against abusive coaching practices that were once mainstream.[16] This movement is gradually holding coaches and athletics personnel accountable for various forms of abusive conduct and calling out administrators for failing to protect athletes from abuse.[17]

One driving force in this shift toward being more critical of the actions of coaches and athletics personnel stems from the Larry Nassar scandal and the failure of administrators to act on reports of abuse from adolescent athletes.[18] Larry Nassar was a team doctor for USA Gymnastics, Michigan State University, and the U.S.

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10. *See* W. Glenn Reese, *Old School vs. New School Coaching Styles*, THE SPORT DIG. (Dec. 1, 2006), https://web.archive.org/web/20160608120228/http://thesportdigest.com:80/archive/article/old-school-vs-new-school-coaching-styles.html.

11. *See* Janie McCauley, *Emboldened Athletes Push Back on Old-School Coaching Methods*, THE ASSOCIATED PRESS (Dec. 7, 2022, 9:54 PM), https://apnews.com/article/sports-college-basketball-california-mens-2ade47b37d4fa1d5b3d3042650418830.

12. *See id.*

13. *See* Anthony Papathomas, *Disordered Eating in Sport: Legitimized and Stigmatized*, *in* SPORT, MENTAL ILLNESS, AND SOCIOLOGY 97, 104 (Michael Atkinson ed., 2018).

14. Gretchen Kerr, Erin Willson & Ashley Stirling, *"It Was the Worst Time in My Life": The Effects of Emotionally Abusive Coaching on Female Canadian National Team Athletes*, 28 WOMEN IN SPORT & PHYSICAL ACTIVITY J. 81, 82 (2020); Katherine N. Alexander, Kat V. Adams, & Travis E. Dorsch, *Exploring the Impact of Coaches' Emotional Abuse on Intercollegiate Student-Athletes' Experiences*, 32 J. OF AGGRESSION, MALTREATMENT & TRAUMA 1295, 1296 (2023).

15. Kerr, Willson & Stirling, *supra* note 14, at 85.

16. *See* Andy Staples, *Over the Years, Line Between Tough and Abusive Coach Has Changed*, SPORTS ILLUSTRATED (Mar. 8, 2010), https://www.si.com/more-sports/2010/03/08/coaching-line [https://perma.cc/4AX8-S9SM].

17. *See, e.g.*, Heather Udowitch, *The Larry Nassar Nightmare: Athletic Organizational Failure to Address Sexual Assault Allegations and a Call for Corrective Action*, 16 DEPAUL J. SPORTS L. 93 (2020); Ben Strauss, *Complaints against Nebraska Softball Coach Show College Athletes' Limited Options*, WASH. POST (Aug. 30, 2019, 1:49 PM), https://www.washingtonpost.com/sports/2019/08/30/complaints-against-nebraska-softball-coach-show-college-athletes-limited-options/; Marc Tracy, *D.J. Durkin Is Fired by Maryland a Day After Being Reinstated*, N.Y. TIMES (Oct. 31, 2018), https://www.nytimes.com/2018/10/31/sports/dj-durkin-fired-maryland.html.

18. *See* Udowitch, *supra* note 17; Juliet Macur, *A Gymnastics Coach Accused of Emotional Abuse Speaks Out*, N.Y. TIMES (Nov. 30, 2020), https://www.nytimes.com/2020/11/30/sports/olympics/gymnastics-abuse-laurie-hernandez-haney.html.

Olympic Committee.[19] He began working with both young adult and adolescent athletes in 1986 as an athletic trainer.[20] During that time, he began sexually assaulting the athletes he worked with while claiming that he was providing medical treatments.[21] Athletes began coming forward to coaches and administrators as early as 1992 with concerns that Nassar's "treatments" were actually sexual abuse.[22] However, no formal actions to remove him from his position were taken until 2016 when one of Nassar's victims filed a criminal complaint against him.[23] This led to hundreds of athletes coming forward about similar acts performed on them by Nassar,[24] which ultimately resulted in his conviction for ten counts of criminal sexual conduct stemming from his sexual abuse of adolescent athletes.[25] Many others faced public backlash and lawsuits over their failure to properly investigate athlete complaints about Nassar from 1992 to 2015 including Michigan State University, the university's president, the university's head gymnastics coach, USA Gymnastics' senior vice president, and many other administrators.[26]

Additionally, a growing number of college athletes are coming forward about their coaches' aggressive coaching tactics and the resulting psychological abuse, which has contributed to the shift toward being more critical of coaches and athletics personnel.[27] Social media has become a tool for athletes to share their experiences, which allows the public to weigh in on whether coaching tactics are going too far.[28] It also enables athletes with similar stories of abuse stemming from a particular coach to find each other; these combined abuse allegations garner more public attention than individual complaints.[29] The introduction of the transfer portal[30] has also given athletes more freedom to come forward about abusive coaching by making it easier

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19. Udowitch, *supra* note 17, at 93.

20. *Id.* at 95.

21. *See id.* at 95–96.

22. *Id.* at 94. Associated Press, *See Resignations, Firings, Charges Filed: How the Larry Nassar Abuse Scandal Has Shone a Spotlight on Others*, CHI. TRIB. (Aug. 22, 2019, 3:18 PM), https://www.chicagotribune.com/sports/college/ct-spt-larry-nassar-scandal-others-affected-20190116-story.html [https://perma.cc/TE7K-ZW3P].

23. Udowitch, *supra* note 17, at 96.

24. Associated Press, *supra* note 22.

25. Udowitch, *supra* note 17, at 101.

26. *See* Associated Press, *supra* note 22.

27. *See* McCauley, *supra* note 11; Alexander Wolff, *Is the Era of Abusive College Coaches Finally Coming to an End?*, SPORTS ILLUSTRATED (Sept. 29, 2015), https://www.si.com/college/2015/09/29/end-abusive-coaches-college-football-basketball [https://perma.cc/X2VG-QCKN].

28. *See* McCauley, *supra* note 11.

29. *See* Wolff, *supra* note 27.

30. The NCAA's transfer portal allows athletes to notify their current school of their intent to transfer. Their name is then put into an NCAA database, which allows other college coaches to reach out to them. The athlete can then commit to a new school and, in many circumstances, begin playing immediately for that new school upon transferring. *See Division I: Notification of Transfer*, NCAA ELIGIBILITY CTR. (May 2023), http://fs.ncaa.org/Docs/eligibility_center/Student_Resources/Notification_of_Transfer.pdf [https://perma.cc/4HQX-FVJ6].

for them to leave those situations and go to other schools.[31] As a result, coaches have less power over their athletes because athletes are no longer forced to stay and quietly endure psychologically and emotionally abusive coaching styles in order to continue playing the sport that they love.[32] Also, ineffective administrators are being brought into the limelight as more athletes share their stories. Many athletes had previously filed internal complaints to administrators, who ultimately found no wrongdoing or swept any misconduct under the rug.[33] This has led to public outrage against administrations in cases where their investigations found nothing despite the apparent presence of abuse.[34]

Currently, college athletes who have suffered psychological or emotional abuse from abusive coaching tactics are successfully getting justice against coaches and administrators through both public outcry and lawsuits.[35] However, adolescent athletes are largely only getting these results if the coaches' actions are sexual in nature.[36] The next logical extension of this movement toward holding coaches and administrators responsible for abusive coaching is to allow adolescent athletes who are bullied or otherwise suffer psychological or emotional abuse at the hands of their coaches to get justice through external means when administrators fail to help them.

I. INCREASED SUSCEPTIBILITY TO MENTAL HEALTH ISSUES AND THE POWER DYNAMIC BETWEEN COACHES AND ADOLESCENT ATHLETES EXACERBATES THE NEED FOR INCREASED PROTECTION FROM ABUSIVE COACHING

A. Abusive Coaching Defined

Abusive coaching refers to a variety of actions that go beyond tough love, hard-nosed coaching.[37] Comments and actions that are personal in nature as opposed to focusing on the adolescent's athletic performance likely fall under abusive

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31. McCauley, *supra* note 11.

32. *See id.*

33. *See* Melanie Anzidei, Thomas C. Zambito & Noah Ram, *Coaching Abuse Pervasive in Pro, College Athletics. What's Being Done to Address It?,* DEMOCRAT & CHRON. (Mar. 23, 2023, 3:00 AM), https://www.democratandchronicle.com/story/news/2023/03/23/coaching-abuse-pervasive-in-us-college-athletics-whats-being-done/70008637007/ [https://perma.cc/E8EU-PF4X]; Strauss, *supra* note 17; Tracy, *supra* note 17.

34. *See* Anzidei, Zambito & Ram, *supra* note 33; Strauss, *supra* note 17; Tracy, *supra* note 17.

35. *See, e.g.*, Mark Long, *Report: Ex-Florida Coach Newbauer Abused Players, Assistants*, OCALA GAZETTE (Sept. 28, 2021), https://www.ocalagazette.com/report-ex-florida-coach-newbauer-abused-players-assistants/ [https://perma.cc/U5BL-A5B9]; Tracy, *supra* note 17.

36. *See, e.g.*, Associated Press, *supra* note 22; Kaylee Douglas, Tanner DeLeon & Kaylee Olivas, *Ringling Principal, Coach Charged Following Allegations of Verbal and Physical Abuse*, OKLA.'S NEWS 4 (Oct. 17, 2023, 5:33 PM), https://kfor.com/news/local/ringling-principal-coach-charged-following-allegations-of-verbal-and-physical-abuse/.

37. *See* Roman Stubbs, *Tough Love or Verbal Abuse? For Coaches and Parents, the New Lines Are Hard to Define*, WASH. POST (Nov. 4, 2021, 8:00 AM), https://www.washingtonpost.com/sports/2021/11/04/tough-coaching/.

coaching.[38] Additionally, abusive coaching is characterized by repeated attacks directed at particular athletes over an extended period of time.[39] Examples of abusive coaching include purposely humiliating athletes in front of their teammates, making them question their self-worth, threatening them, forcing them to compete through injuries or other physical limitations, and seeking to intimidate them.[40] This does not mean that coaches can no longer be animated in their frustrations with athletes or hold athletes to high standards. For example, yelling at players for issues related to their athletic performance is not abusive.[41] Additionally, reducing playing time or punishing players by making them run is acceptable.[42] As long as the behavior is reasonable and performance-related, tough coaching will not rise to the level of abusive coaching.

Coaches and athletes vary in what specific conduct they think rises to the level of abusive coaching.[43] Coaches tend to underestimate the negative effects that their actions have on athletes.[44] In one study, former adolescent athletes and coaches were asked whether certain behaviors were inappropriate coaching actions and whether those actions rose to the level of bullying.[45] For relational actions, such as embarrassing the athlete in front of their teammates or directing ethnic slurs at the athlete, about eighty-eight percent of the former athletes found these behaviors to be inappropriate coaching actions and seventy-three percent concluded that these actions constituted bullying.[46] In contrast, seventy-five percent of coaches thought that these same coaching actions were inappropriate and fifty-one percent considered these actions bullying.[47] There were similar discrepancies between the former athletes' and coaches' perceptions of verbal actions, such as calling athletes unwanted nicknames or threatening them.[48] This makes it difficult for coaches, athletes, administrators, and the public as a whole to know where to draw the line between abusive coaching and tough coaching.[49]

In 2018, University of Maryland football player Jordan McNair collapsed at practice while running sprints.[50] The coaching staff made two players hold McNair

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38. Staples, *supra* note 16.

39. *See* Meghan M. Hull Jacquin, *When Does Tough Coaching Cross the Line Into Abuse?*, HOWIE, SACKS & HENRY, https://hshlawyers.com/blog/when-does-tough-coaching-cross-the-line-into-abuse/ [https://perma.cc/M4DQ-MUR9].

40. *Id.*

41. Staples, *supra* note 16.

42. *For Coaches*, U.S. CTR. FOR SAFESPORT, https://uscenterforsafesport.org/endabuseinsport_coaches/ [https://perma.cc/LB8C-2XX7].

43. *See* Brad Strand, *Athletes' and Coaches' Impressions of Questionable Coaching Practices and Bullying (Emotional Abuse)*, 8 ATHENS J. SPORTS 231, 239–40 (2021).

44. *See id.* at 240.

45. *Id.* at 239–40.

46. *Id.* at 239.

47. *Id.*

48. *Id.* at 240.

49. *See* Frank Owusu-Sekyere & Misia Gervis, *In the Pursuit of Mental Toughness: Is Creating Mentally Tough Players a Disguise for Emotional Abuse?*, 10 INT'L J. COACHING SCI. 3, 8 (2016); Staple, *supra* note 16; Stubbs, *supra* note 37.

50. *The Inside Story of a Toxic Culture at Maryland Football*, ESPN (Aug. 10, 2018, 6:30 PM), https://www.espn.com/college-football/story/_/id/24342005/maryland-terrapins-

up and forced him to continue as he struggled to complete the exercise.[51] After completing the sprint, he fell to the ground and began having a seizure[52] He was taken to the hospital but eventually died as a result of the incident.[53] After McNair died, Maryland football players came forward with other complaints of abusive coaching within the program. These players shared that the University of Maryland coach had slapped meals out of players' hands, forced players who were deemed "overweight" to eat candy bars and watch their teammates work out, cursed at them, mocked their masculinity when they could not complete exercises, made fun of players who passed out during drills, humiliated them, and forced them to eat until they threw up.[54] The University of Maryland launched an investigation into the coach's actions after McNair's death, but ultimately reinstated him.[55] The coach was terminated one day after his reinstatement was announced after news of his abusive coaching tactics and subsequent reinstatement sparked public outcry.[56]

Similarly, in 2019, University of Nebraska softball players came forward with complaints about their coach's abusive coaching practices.[57] The University of Nebraska coach texted players constantly throughout the day and night, required athletes to tell her about their love lives, forced players to play through injuries, and shamed them for their weight.[58] Administrators investigated the complaints, but eventually reinstated the coach and refused to offer any information regarding the results of the investigation to the complaining players or their parents.[59] In 2021, University of Florida's women's basketball coach was accused by his players of making racist remarks, throwing basketballs at players, and making degrading comments about their intelligence.[60] After each instance of abusive conduct was reported by the players, the administration would investigate it and talk to the coach about making necessary corrections, but ultimately he was never released from the program or otherwise punished; he even received a contract extension after the concerns were brought to the administration.[61]

At the high school level, a football coach at Ringling High School in Oklahoma was accused by his athletes of calling them derogatory names, forcing them to do exercises naked, and using racial slurs.[62] The school administration investigated

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football-culture-toxic-coach-dj-durkin [https://perma.cc/R2JV-K2TL].

51. *Id.*

52. *Id.*

53. *Id.*

54. *Id.*

55. Tracy, *supra* note 17.

56. *Id.*

57. Strauss, *supra* note 17.

58. The coach texted one athlete almost one hundred times in one day. *Id.*

59. *Id.*

60. Andrea Adelson, *Former Florida Gators Women's Basketball Coach Cam Newbauer Accused of Abuse by Players*, ESPN (Sept. 27, 2021), https://www.espn.com/womens-college-basketball/story/_/id/32294184/former-florida-gators-women-basketball-coach-cam-newbauer-accused-abuse-players [https://perma.cc/45FW-GX5Q].

61. *Id.*

62. *See* Douglas, DeLeon & Olivas, *supra* note 36; *High School Football Coach Charged After Months-Long OSBI Investigation*, NEWS ON 6 (Oct. 17, 2023, 5:51 PM), https://www.newson6.com/story/652f104c6fe22912aa72479c/high-school-football-coach-

these actions and eventually decided to keep him on staff.[63] Similarly, the volleyball coach for Byron Nelson High School, in Trophy Club, Texas, was investigated by the school and the school district for allegations of abusive coaching.[64] Both athletes and their parents complained to the administration about the coach calling athletes inappropriate names, commenting on their bodies, and humiliating them in front of their teammates.[65] These verbal attacks focused on the athletes' bodies and character as opposed to their actions on the court.[66] The coach has remained in her position at Byron Nelson High School[67] despite these concerns and the "investigation" launched by the school.

The use of abusive coaching tactics like these leads to mental health issues in athletes.[68] Athletes may experience lower self-esteem, anxiety, depression, or disordered eating as a result of being belittled, embarrassed, or degraded by their coaches.[69] Instances of abusive coaching toward high school athletes are particularly troubling because adolescent athletes are more susceptible to mental health issues than college athletes or adults in general,[70] therefore the negative effects of abusive coaching on mental health are intensified in youth athletes. Additionally, the unique power dynamic between coaches and adolescent athletes potentially exacerbates the effects of abusive coaching on mental health and makes it less likely that athletes will detect that their coach's actions are abusive or report their coach's actions. This power dynamic is unique in part because coaches solely determine whether an athlete is able to participate in a sport, unlike in a student-teacher relationship where all students receive the same lectures. Additionally, the relationship between coaches and athletes is often more personal due to less monitoring and the recreational nature of sports than student-teacher relationships, which are more professional in nature.

B. Adolescent Athletes' Susceptibility to Mental Health Issues

In general, adolescents and adults in the United States experience mental health issues at approximately the same rate.[71] However, adolescents are more likely to

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charged-after-months-long-osbi-investigation [https://perma.cc/VU4S-YSRA].

63. *See* Douglas, DeLeon & Olivas, *supra* note 36.

64. *See* Greg Riddle, *Byron Nelson Volleyball Coach Verbally Abused Girls, Say Parents and Former Players*, THE DALL. MORNING NEWS (Feb. 14, 2023, 4:42 PM), https://www.dallasnews.com/high-school-sports/volleyball/2023/02/14/byron-nelson-volleyball-coach-verbally-abused-girls-parents-and-former-players-say/?outputType=amp [https://perma.cc/MC5T-7292].

65. *Id.*

66. *Id.*

67. *About BNVB*, BYRON NELSON VOLLEYBALL (2023), https://bnvolleyball.com/#teams [https://perma.cc/D9D7-R2LW].

68. *See* Alexander, Adams & Dorsch, *supra* note 14, at 1296; Kerr, Willson & Stirling, *supra* note 14, at 82–83.

69. *See* Alexander et al., *supra* note 14, at 1296.

70. *See* Zeinab Ghiami, Karim Khalaghi, Kim Geok Soh & Samsilah Roslan, *Comparison of Mental Health Components among Athlete and Non-Athlete Adolescents*, 3 INT'L J. KINESIOLOGY & SPORTS SCI. 33, 33 (2015).

71. *See Mental Health by the Numbers*, NAT'L ALL. ON MENTAL ILLNESS (Apr. 2023), https://www.nami.org/mhstats [https://perma.cc/572K-CHH6].

experience severe episodes of mental illness than their adult-counterparts.[72] According to one study, 15% of older adolescents had a major depressive episode from 2018-2019 and 37% had "persistent feelings of sadness or hopelessness."[73] Additionally, 7.4% of older adolescents have been diagnosed with anxiety or depression[74] and 20% have seriously considered suicide.[75] Suicide remains the third-leading cause of death for teenagers[76] and suicide rates among this age group continue to rise.[77]

Adolescents are more susceptible to mental health issues in part because their brains are at a critical stage of development. During adolescence, the amygdala, which governs immediate emotionally-charged reactions, develops at a faster rate than the prefrontal cortex, which controls reasoned thinking and logical consideration of risk versus reward.[78] As a result, adolescents are more likely to react to negative events or stressors in an exaggerated, overly-emotional way and are unable to effectively process or regulate these emotions in a healthy manner, which can lead to mental health issues.[79] Another factor that contributes to adolescents being more susceptible to mental health issues is that the nature of being a teenager is inherently stressful and therefore any additional stressors may push adolescents over the edge into experiencing mental illness.[80] This inherent stress can stem from

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72. Nearly 6 percent of adults have severe mental illness, while approximately 11 percent of adolescents experience severe impairment due to mental illnesses. *Mental Illness*, NAT'L INST. OF MENTAL HEALTH (Sept. 2024), https://www.nimh.nih.gov/health/statistics/mental-illness#part_2632 [https://perma.cc/VGP4-EJWS].

73. U.S. DEP'T OF HEALTH & HUM. SERVS., 2022 NATIONAL HEALTHCARE QUALITY AND DISPARITIES REP. 74 (2022).

74. *Mental Health of Adolescents*, WORLD HEALTH ORG. (Oct. 10, 2024), https://www.who.int/news-room/fact-sheets/detail/adolescent-mental-health#:~:text=Factors%20that%20can%20contribute%20to,or%20aspirations%20for%20the%20future [https://perma.cc/X9KA-D7KM].

75. U.S. DEP'T OF HEALTH & HUM. SERVS., *supra* note 73, at 74.

76. *See National Center for Health Statistics: Adolescent Health*, CTRS. FOR DISEASE CONTROL & PREVENTION (Nov. 1, 2024), https://www.cdc.gov/nchs/fastats/adolescent-health.htm [https://perma.cc/B54T-WVDK].

77. *See* Sally C. Curtin & Matthew F. Garnett, *Suicide and Homicide Death Rates Among Youth and Young Adults Aged 10-24: United States, 2001-2021*, CTRS. FOR DISEASE CONTROL & PREVENTION (June 2023), https://www.cdc.gov/nchs/products/databriefs/db471.htm [https://perma.cc/HDM2-YAYS].

78. *See* B.J. Casey, Rebecca M. Jones & Todd A. Hare, *The Adolescent Brain*, 1124 ANNALS N.Y. ACAD. SCIS. 111, 116, 122 (2008); *Teen Brain: Behavior, Problem Solving, and Decision Making*, AM. ACAD. OF CHILD & ADOLESCENT PSYCHIATRY (Sept. 2017), https://www.aacap.org/AACAP/Families_and_Youth/Facts_for_Families/FFF-Guide/The-Teen-Brain-Behavior-Problem-Solving-and-Decision-Making-095.aspx [https://perma.cc/Q5M6-68CB].

79. *See* Casey et al., *supra* note 78, at 120–21; Randi Nelson, *Why Do Mental Health Issues Appear in Adolescence?*, VIEWPOINT CTR., https://www.viewpointcenter.com/why-do-mental-health-issues-appear-in-adolescence/ [https://perma.cc/FK3J-ZZUK].

80. *See* Claudia M. Elsig, *Understanding the Causes of Teenage Mental Health Problems*, CALDA CLINIC (Jan. 11, 2023), https://caldaclinic.com/understanding-causes-of-teenage-mental-health-problems/ [https://perma.cc/U46G-2YHG]; Nelson, *supra* note 79; WORLD HEALTH ORG., *supra* note 74.

a combination of issues including sleep deprivation, poor home life or socioeconomic situations, the prevalence of social media, the high value placed in social status, and the desire for peer approval.[81]

Athletes are also generally more susceptible to mental health issues than non-athletes due to the culture of sports and misconceptions about "mental toughness." Mental toughness refers to the ability to handle the pressures of competing and to push through pain in order to perform to one's full potential.[82] The culture of sports assumes that mental toughness is necessary to be successful and that the presence of mental illness means that an athlete is just not mentally tough enough to handle the pressures of the sport.[83] In this way, mental illness is seen as a "sign of weakness" within sports, which creates a stigma surrounding athletes struggling with mental health issues.[84] Athletes experiencing mental illness will likely try to hide that they are struggling in order to avoid this stigma and resulting negative views of their athletic ability.[85] Efforts to hide mental illness not only place additional stress on athletes, but also deter them from seeking proper help, further exacerbating mental health issues.[86]

C. Power Dynamic Between Coaches and Adolescents

The imbalance of power between coaches and adolescent athletes exacerbates the effects of abusive coaching on mental health. In general, children are taught to respect adults, particularly school officials.[87] There is an even greater respect for coaches because of the increased personal nature that exists within coach-athlete relationships, which allows athletes to see their coaches as parent figures or mentors.[88] This respect, in conjunction with explicit authority from the school administration, gives coaches great power over their adolescent athletes.[89] Thus, adolescents are likely to misconstrue their coach's abusive actions or corrections as tough love.[90] Due to this, athletes will fail to recognize inappropriate remarks and instead take these comments and actions to heart, which will result in a greater negative impact on their mental health. Additionally, athletes view their coaches as experts of the sport and therefore take their coaching seriously.[91] Inappropriately

81. *See* Elsig, *supra* note 80.

82. *See* Papathomas, *supra* note 13, at 103.

83. *See* Elizabeth C. J. Pike, *Mental Illness Stigma*, *in* SPORT, MENTAL ILLNESS AND SOCIOLOGY 9, 14 (Michael Atkinson ed., 2018).

84. *Id.*

85. *See id.* at 17–18.

86. *See id.* at 12, 17–18.

87. *See* Jill Berkowicz & Ann Myers, *Schools Must Continue to Teach and Practice Respect*, EDUC. WK. (May 10, 2018), https://www.edweek.org/leadership/opinion-schools-must-continue-to-teach-and-practice-respect/2018/05 [https://perma.cc/QS4M-5ARE].

88. Strand, *supra* note 43, at 241.

89. *See* Nancy L. Swigonski, Brett A. Enneking & Kristin S. Hendrix, *Bullying Behavior by Athletic Coaches*, 133 PEDIATRICS PERSPS. 273, 273 (2014); *Sources of Power and Influence for Coaches*, SPORTS CONFLICT INST., https://sportsconflict.org/resource/sources-of-power-and-influence-for-coaches/ [https://perma.cc/VG7J-KGDX].

90. *See* Stubbs, *supra* note 37.

91. *See* Papathomas, *supra* note 13, at 102.

correcting an athlete for actions that are either difficult to correct or only tangentially-related to the individual's athletic performance will be interpreted by the athlete as genuine coaching, which could lead to the athlete trying to make the correction in unhealthy ways or leave them with feelings of self-doubt and reduced self-esteem if they are unable to act on the coach's comment.[92]

Even if athletes are able to detect that their coach's actions go beyond aggressive coaching, the power dynamic between coaches and athletes makes it less likely that athletes will report their coach's abusive behaviors. Coaches have coercive power over their athletes in that they are able to reward players with playing time or punish players by benching them or forcing them to do exercises, like running.[93] They can also control athletes by making practices more physically grueling or increasing obligations to the team, which can indirectly affect the athletes' social life, sleep schedule, academic performance, or diet.[94] This discourages athletes from coming forward with allegations of abusive coaching because the coach may retaliate against them by reducing their playing time or making practices miserable.[95] Athletes also may choose to not report abusive coaching because they may believe that tolerating demeaning coaching is necessary to build their mental toughness, which allows coaches to get away with belittling their athletes under the guise of toughening them up.[96] Athletes are further disincentivized from reporting these situations because even after alerting school administrators of their concerns, coaches usually go unpunished.[97] Therefore, reporting abusive coaching only serves to aggravate the coach, which can result in loss of playing time or other punishments through the misuse of their coercive power. Unlike in college athletics, where the transfer portal allows athletes to move schools if they face backlash from the coach after unsuccessfully reporting abusive behavior,[98] adolescent athletes are typically stuck with the coach and must either endure retaliatory behavior or quit the sport altogether.

The power dynamic between coaches and athletes makes it difficult for athletes to detect that their coach is engaging in abusive behavior.[99] It also heightens the effects of abusive coaching practices on the mental health of athletes because these athletes view their coaches as close mentors or fear that any mistakes will cost them their playing time.[100] Additionally, the risks associated with reporting abusive behavior are high in that athletes may lose playing time or have to endure further abuse if the coach is retained,[101] so athletes are likely to silently endure

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92. For example, comments about an athlete's weight may lead them to use unhealthy methods to try to lose weight, which can result in eating disorders. *See id.*

93. See Deborah L. Brake, *Going Outside Title IX to Keep Coach-Athlete Relationships in Bounds*, 22 MARQ. SPORTS L. REV. 395, 405 (2012).

94. *See id.*

95. *See* Alexander et al., *supra* note 14, at 1294–95.

96. *See* Papathomas, *supra* note 13, at 104.

97. *See* Alexander et al., *supra* note 14, at 1295; s*ee, e.g.*, Douglas et al., *supra* note 36; Riddle, *supra* note 64.

98. McCauley, *supra* note 11.

99. *See* Stubbs, *supra* note 37.

100. *See* Papathomas, *supra* note 13, at 102.

101. *See* Alexander et al., *supra* note 14, at 1294–95.

psychologically taxing behaviors instead of seeking help. This is particularly a problem for adolescent athletes because of their increased risk of developing mental health issues,[102] which persist for years after the athletes leave the sport.[103] These issues highlight the need for careful scrutiny of coaches to ensure that these inappropriate coaching practices are stopped, but the current system for regulating abusive coaching through the use of administrative investigations is largely ineffective.

II. ABUSIVE COACHING CONCERNS "RESOLVED" WITHIN THE SCHOOL

A. SCHOOL ADMINISTRATIVE INVESTIGATIONS AS PRIMARY RESPONSE TO ABUSIVE COACHING

Reports of abusive coaching are rarely resolved through the legal system. Instead, lawyers turn to school administrators to address issues involving psychological and emotional abuse from coaches.[104] Administrative investigations within the school serve as the primary recourse for adolescent athletes who have experienced abusive coaching.[105] This process begins by athletes reporting instances of abusive coaching to school administrators.[106] The administrators then launch an investigation into the allegations against the coach.[107] Once the administration concludes its investigation, it announces any actions that will be taken regarding the coach and this decision is final.[108] Administrators do not typically disclose the findings of the investigation to the complaining athletes or their parents,[109] and therefore do not have to formally justify the reasoning behind the results of their investigations. If the coach is not punished after the administrative investigation, then effectively the athlete's only remaining option is to go public with their experiences in hopes that public outcry will pressure the administration into acting.[110]

The policies and procedures for administrative investigations into bullying or abusive conduct by coaches are determined by each school. Each state has an athletic association that governs high school sports within the state.[111] These athletic associations outline the standards that govern athletic participation within each state but fail to discuss policies or procedures for handling coach misconduct or abusive

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102. *See supra* text accompanying notes 78–85.

103. Kerr et al., *supra* note 14, at 83.

104. *Coaching Abuse Cases for Student Athletics*, L. OFF. OF MARTIN J. GREENBERG, LLC., https://greenberglawoffice.com/sports-law/coaching-abuse-cases-for-student-athletics/ [https://perma.cc/WZA2-6WKY]; *see also* Anzidei et al., *supra* note 33 (discussing one lawyer's view that the way to address abusive coaching is through educational programs implemented by the school so that young athletes can avoid abusive coaching).

105. *See, e.g.*, Chisholm v. St. Marys City Sch. Dist. Bd. Of Educ., 947 F.3d 342 (6th Cir. 2020); Douglas et al., *supra* note 36; Riddle, *supra* note 64.

106. L. OFF. OF MARTIN J. GREENBERG, LLC, *supra* note 104; Strauss, *supra* note 17.

107. L. OFF. OF MARTIN J. GREENBERG, LLC, *supra* note 104; Strauss, *supra* note 17.

108. Strauss, *supra* note 17.

109. Strauss, *supra* note 17; *see also* Anzidei et al., *supra* note 33.

110. L. OFF. OF MARTIN J. GREENBERG, LLC, *supra* note 104; Tracy, *supra* note 17.

111. Nate Perry, *State High School Associations Come in All Shapes and Sizes*, NAT'L FED'N OF STATE HIGH SCH. ASS'NS (Jan. 14, 2020), https://www.nfhs.org/articles/state-high-school-associations-come-in-all-shapes-and-sizes/ [https://perma.cc/4SDV-BGYQ].

behavior.[112] The Indiana High School Athletic Association specifically puts the burden on high school principals to determine the appropriate disciplinary process for their coaches.[113] This affords schools wide discretion to put policies in place that inherently reduce complaints against coaches for bullying or inappropriate behavior. Also, as a result of this delegation of power to individual schools, policies related to resolving abusive coaching issues vary widely across the country.

Schools often frame bullying policies in terms of peer-on-peer bullying by defining bullying as actions that one student commits against another or describing actions that students can do that would violate the policy.[114] This framework fails to clarify that school personnel can also engage in bullying and fails to lay out what behaviors might qualify as bullying or harassment from school personnel in the same way that it does for students.[115] If the policies clearly laid out examples of bullying by school staff in the same way that they lay out examples of peer-on-peer bullying, then it would be easier for adolescents to identify when their coach's behavior rises to a level where they should report them, since adolescent athletes have a hard time determining this on their own.[116] Reporting procedures within school policies also implicitly reduce complaints against coaches by either providing reporting procedures for complaints against staff in a short statement after the procedures for reporting students or omitting any procedure for reporting school staff at all.[117] One particular subset of policies requires students to bring complaints against coaches, including those about abusive coaching practices, directly to the coach before they can report their concerns to administrators and before their parents can get involved.[118] This is problematic because it forces adolescent victims to essentially

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112. *See, e.g.*, *2022-23 By-Laws & Articles of Incorporation*, IND. HIGH SCH. ATHLETIC ASS'N, INC., https://www.ihsaa.org/sites/default/files/documents/2022-23%20By-Laws.pdf [https://perma.cc/7WWQ-GP2X]; *IHSAA Handbook: Articles, Bylaws & Policies*, IOWA HIGH SCH. ATHLETIC ASS'N, https://www.iahsaa.org/wp-content/uploads/2023/08/2023-24-IHSAA-Handbook-FINAL.pdf [https://perma.cc/AUS2-9WN9]; *Constitution and Contest Rules: 2023-2024*, UNIV. INTERSCHOLASTIC LEAGUE (July 15, 2023), https://www.uiltexas.org/files/policy/2023-2024-UIL-Constitution.pdf [https://perma.cc/T5LY-CEKC].

113. IND. HIGH SCH. ATHLETIC ASS'N, INC., *supra* note 112, at 40.

114. *See, e.g.*, *Ringling Jr/High School Student Handbook: 2023-2024*, RINGLING JR/HIGH SCH. 13, https://files.gabbart.com/2514/jh_hs_handbook.pdf [https://perma.cc/9VG2-DPZK]; *Yorktown High School Handbook 2022-2023*, YORKTOWN HIGH SCH. 15, https://4.files.edl.io/2381/07/06/22/134223-b22da23b-e0f9-4f54-add4-3c7754b20353.pdf (July 1, 2022) [https://perma.cc/WU7P-N3NY].

115. *See, e.g.*, RINGLING JR/HIGH SCH., *supra* note 114, at 13; YORKTOWN HIGH SCH., *supra* note 114, at 15.

116. *See* Stubbs, *supra* note 37.

117. *See, e.g.*, RINGLING JR/HIGH SCH., *supra* note 114, at 4; YORKTOWN HIGH SCH., *supra* note 114, at 15.

118. *See, e.g.*, *Yorktown Athletic Department Constitution*, YORKTOWN HIGH SCH. 10, https://web.archive.org/web/20230813090313/s3-us-west-2.amazonaws.com/sportshub2-uploads-prod/files/sites/431/2019/10/24181111/Athletic-Constitution-2023-24.pdf (July 2023); *Madison-Grant Jr./Sr. High School Parent/Student Athlete Handbook*, MADISON-GRANT ATHLETIC DEP'T., https://core-docs.s3.us-east-1.amazonaws.com/documents/asset/uploaded_file/5062/MGHS/4624921/Parent-Student-

face their abuser before their parents can step in and address the situation, which impedes on the parents' right to manage the care, custody, and control of their children.[119] It also provides an additional obstacle that stops athletes from reporting their coaches to the administration.

B. Incentives for Administrators to Side with Coaches

In addition to the problematic nature of schools controlling the policies that govern administrative investigations of abusive coaching and bullying, in conducting the investigations, administrators have an incentive to side with their coaches. Administrators have an interest in preventing the scandals that firing coaches for misconduct creates.[120] Additionally, these administrators likely hired the coach to begin with[121] and could therefore face backlash themselves if the coach is fired for abusive practices.[122] The culture of sports also puts an emphasis on winning, so administrators may be more willing to look past abusive actions if the coach's team is successful.[123] Further, adolescents lie, which may make it harder for administrators to believe their stories of inappropriate coaching actions over their co-worker's depiction of events.[124] Finally, fired coaches may retaliate against their former schools by filing wrongful termination lawsuits, which can further draw out the incident and subject the investigative process of the administrators to increased scrutiny.[125] Administrators may seek to prevent this by erring on the side of finding that the coach did nothing wrong or allowing them to leave on their own terms and more easily get a new coaching job elsewhere.[126]

Athlete-Handbook.pdf 8–9 (May 8, 2023) [https://perma.cc/5YY4-J769]; *Heritage Christian High School – Athletic Handbook*, HERITAGE CHRISTIAN HIGH SCH. 17–18, https://www.hcsathletics.net/uploaded/Heritage_Documents/Parents/Handbooks/2018-19/ATHLETIC_HANDBOOK_-_HS_-_7-10-2018.pdf.

119. *See* Troxel v. Granville, 530 U.S. 57 (2000).

120. *See* Strauss, *supra* note 17.

121. *See* Janis K. Doleschal, *Managing Risk in Interscholastic Athletic Programs: 14 Legal Duties of Care*, 17 MARQ. SPORTS L. REV. 295, 328 (2006).

122. *See How the Larry Nassar Scandal Has Affected His Associates*, THE ASSOCIATED PRESS (Nov. 28, 2018, 10:28 AM), https://apnews.com/article/a23e385e039b41478cf05de2d445a1d9.

123. *See, e.g.*, *Chisholm*, 947 F.3d; Strauss, *supra* note 17.

124. Beth Arky, *Why Kids Lie and What Parents Can Do About It*, CHILD MIND INST., https://childmind.org/article/why-kids-lie/.

125. *See, e.g.*, *Cal Fires Longtime Women's Swimming Coach Teri McKeever Over Alleged Bullying, Abuse*, CBS NEWS BAY AREA (Feb. 1, 2023, 3:00 AM), https://www.cbsnews.com/sanfrancisco/news/teri-mckeever-cal-swimming-coach-fired-bullying-misconduct/ [https://perma.cc/UU8T-BWPM]; The Associated Press, *Ex-Coach Sues Northwestern for $130M for Wrongful Termination in Hazing Scandal*, NAT'L PUB. RADIO (Oct. 5, 2023, 3:18 PM), https://www.npr.org/2023/10/05/1203949028/northwestern-coach-pat-fitzgerald-lawsuit-hazing [https://perma.cc/66XE-VWWY].

126. *See, e.g.*, Long, *supra* note 35; Strauss, *supra* note 17.

C. Rare Legal Case Dealing with Abusive Coaching: Chisholm v. St. Marys City Sch. Dist. Bd. of Educ.

Chisholm v. St. Marys City School District Board of Education is a rare example of athletes using the legal system to try to remove their coach for engaging in abusive coaching practices.[127] The coach in this 2020 case, Frye, had a history of using obscenities to degrade players and forcing them to play through injuries.[128] Frye had even been reprimanded by the Ohio Department of Education for his behavior toward athletes.[129] He was hired by St. Marys to revive their struggling football program and therefore began coaching the plaintiffs. Frye would belittle the plaintiffs by calling them derogatory names and yelling obscenities at them in from of their teammates.[130] He also allowed the players to vote one of the plaintiffs off of the team.[131] Due to this, the plaintiffs' fathers filed complaints against the coach with the school administration.[132] The school board investigated Frye's action through an outside investigator, who conducted interviews with players and parents.[133] The investigator determined that the swearing was not enough to warrant action against Frye and he remained the coach of the team.[134]

The plaintiffs sued under a number of causes of action, but ultimately the court considered claims under Title IX and intentional infliction of emotional distress.[135] The majority found that the nature of high school football is the same as the combative, confrontational nature of the violent gladiator games of Ancient Rome and suggested that high school athletes should tolerate crude coaches in the same way that NFL players do in order to achieve success.[136] As a result, Frye's behavior did not rise to the level of extreme and outrageous necessary to sustain the intentional infliction of emotional distress claim.[137] Additionally, Frye's derogatory comments about the plaintiffs' masculinity were not sufficient to sustain their Title IX claim for sex-based discrimination.[138] The dissent pushes back on the application of the extreme and outrageous standard used in this case in light of the fact that these athletes are minors and also gives more weight to the long-term mental health effects of the abusive coaching that the plaintiffs endured.[139] This case illustrates the way that mental toughness and abusive coaching has been viewed traditionally as well as the more modern approach of being cognizant of abusive coaching practices toward minor athletes and the seriousness of emotional harm, which sets the stage for how the legal system can be used by adolescent athletes to address abusive coaching.

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127. *Chisholm*, 947 F.3d.
128. *Id.* at 346.
129. *Id.*
130. *Id.* at 347–48.
131. *Id.* at 348.
132. *Id.*
133. *Id.*
134. *Id.*
135. *Id.* at 349.
136. *Id.* at 346.
137. *Id.* at 354.
138. *Id.* at 349–51.
139. *Id.* at 355–56.

III. UTILIZING THE LEGAL SYSTEM AND MODIFYING EXISTING PRACTICES TO ADDRESS ABUSIVE COACHING

The results of administrative investigations fail to match up with the general public's perception of the appropriate result in cases of psychologically and emotionally abusive coaches.[140] Having legal remedies outside of administrative investigations would give young athletes and their parents an alternative to protect themselves from further harm and would put legal pressure on administrators to thoroughly investigate complaints. Further, having an outside entity investigate allegations of abuse within the school would resolve some of the conflicts of interest inherent in administrative investigations.[141] Issues with administrative investigations can also be addressed by modifying existing practices.

A. Intentional Infliction of Emotional Distress

1. Issues

Intentional infliction of emotional distress occurs when an individual engages in extreme and outrageous conduct that intentionally or recklessly causes serious emotional distress to another individual.[142] The standard for extreme and outrageous conduct is whether the conduct was "beyond all possible bounds of decency" and therefore "utterly intolerable in a civilized community."[143] Additionally, the test for whether the aftermath of the conduct qualifies as serious emotional distress is whether the harm is so severe that "no reasonable man could be expected to endure it."[144] This standard has historically been very hard to meet, potentially due to outdated understandings of emotional and psychological harm resulting in the dismissiveness of non-physical injuries.[145]

One reason that this cause of action has not been used by adolescent athletes against coaches for belittling, demeaning, and embarrassing coaching behaviors is because of how harshly courts interpret the extreme and outrageous requirement. In *Chisholm*, the standard for normal conduct from a coach was based on the court viewing high school athletes as equivalent to Roman gladiators or NFL players,[146] which severely limits the level of conduct that could rise to extreme and outrageous. Additionally, making inappropriate sexual comments about students, throwing minor athletes to the ground, coercing athletes into not reporting concerns to administrators, and calling athletes derogatory names have all been found to fall short of extreme and outrageous conduct by coaches and teachers.[147] The standard for athletes may be

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140. *See, e.g.*, Anzidei et al., *supra* note 33; Strauss, *supra* note 17; Tracy, *supra* note 17.

141. *See supra* text accompanying notes 120–26.

142. *Chisholm*, 947 F.3d at 353; John J. Kircher, *The Four Faces of Tort Law: Liability for Emotional Harm*, 90 MARQ. L. REV. 789, 798 (2007).

143. *Chisholm*, 947 F.3d at 353; Kircher, supra note 142, at 799.

144. *Chisholm*, 947 F.3d at 353; Kircher, supra note 142, at 800.

145. *See* Pike, *supra* note 83.

146. *Chisholm*, 947 F.3d at 346.

147. *Id.* at 345; DeCecco v. Univ. of S.C., 918 F.Supp.2d 471, 511–14 (D.S.C. 2013); Niles v. Nelson, 72 F.Supp.2d 13, 23 (N.D.N.Y. 1999); Cronk v. Suffern Senior High Sch., 10 Misc.

higher for non-athletes due to the culture of sports and the increased tolerance toward otherwise abusive conduct when analyzing a coach's behavior toward their athletes.[148]

This cause of action has also not been widely used by adolescent athletes in this way because of the heightened standard for serious emotional distress. Individuals, effectively, must have sought treatment for the emotional distress or have sufficient documentation of the symptoms in order to meet this standard.[149] The stigma surrounding mental illness in athletes makes it less likely that they will seek treatment for abusive coaching tactics[150] and therefore will not have sufficient evidence to meet this standard, even if the mental anguish they endured would otherwise be considered severe emotional distress. Additionally, even athletes who do seek extensive treatment may not be able to meet this test. In *Chisholm*, after being emotionally abused by his coach, the plaintiff moved schools, saw an expert psychologist and counselor, experienced panic attacks and anxiety, and was prescribed antidepressants,[151] and the court still held that the plaintiff did not suffer serious mental harm.[152] This is especially egregious considering this case was decided in 2020 amidst emerging acceptance of mental health issues as serious causes for concern.[153] Further, even with sufficient evidence of serious emotional distress and the presence of extreme and outrageous conduct, it is difficult to prove that the conduct directly caused the distress. This is especially true for adolescents because a variety of other common stressors associated with being a teenager are also contributing to the individual's overall mental health.[154]

2. Solutions

Previous interpretations of the elements of emotional distress rested on outdated misconceptions about emotional harm and mental health as less severe than physical injuries. This stigma associated with mental illness has lessened over time as public figures have come forward to put a face to mental illness and organizations have worked to educate society on the nature of mental health issues.[155] The test for extreme and outrageous conduct under intentional infliction of emotional distress depends on whether the conduct is "beyond all possible bounds of decency" and, therefore, "utterly intolerable in a civilized community."[156] The general concern for mental health issues today has put stricter limits on what actions are considered decent and tolerable, as shown by the shift away from previously accepted old-school

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3d 1061(A), at *1–*2 (N.Y. Sup. Ct. 2005).

148. *See* Papathomas, *supra* note 13, at 104.

149. *See Cronk*, 10 Misc. 1061(A) at *3; Maselli v. Reg'l Sch. Dist. No. 10, 235 A.3d 599, 617 (Conn. App. Ct. 2020).

150. *See* Pike, *supra* note 83, at 17–18.

151. *Chisholm*, 947 F.3d at 356 (White, J., dissenting).

152. *Id.* at 354.

153. *Id.*

154. *See* Elsig, *supra* note 80; Nelson, *supra* note 79; WORLD HEALTH ORG., *supra* note 74.

155. *See* Pike, *supra* note 83, at 16, 19.

156. *Chisholm*, 947 F.3d at 353; Kircher, *supra* note 142, at 799.

coaching methods.[157] The legal system should reflect this by allowing more behaviors to fall under extreme and outrageous conduct. Additionally, the fact that the victim is an adolescent athlete should be taken into consideration when determining whether a coach's actions are extreme or outrageous because of the power dynamic between the coach and the athlete. Further, coaches are supposed to be providing positive mentorship and cultivating young athletes, which makes abusive conduct that much more egregious. The dissent in *Chisholm* applied this thinking in finding that the coach's conduct was extreme and outrageous because the coach repeatedly used his power to degrade minor athletes in front of their peers, and this belittling had nothing to do with their athletic performance.[158]

The test for severe emotional distress is also based on societal acceptance because it considers whether the harm is such that "no reasonable man could be expected to endure it."[159] Shifts in understanding the toll of mental health issues should also be reflected in the court's application of this provision. The presence of public outcry after reports of abusive coaching can be used to gauge what conduct goes beyond present expectations of what one should be expected to endure.[160] Additionally, the increased susceptibility of adolescent athletes to mental health and the long-term effects of those mental health issues[161] should lower the threshold for what one should reasonably be expected to endure. The dissent's holding in *Chisholm* reflects this in that the plaintiff's loss of friends, depressed and panicked feelings, antidepressant prescription, and feelings of sadness toward his hometown were all considered in determining that the plaintiff suffered severe emotional abuse.[162]

B. Fourteenth Amendment Substantive Due Process Claim

1. Issues

The Fourteenth Amendment substantive due process claim protects public school students from "state intrusions into realms of personal privacy and bodily security through means so brutal, demeaning, and harmful as literally to shock the conscience."[163] The test for whether a student's substantive due process rights have been violated is whether the conduct caused severe injury "disproportionate to the need presented, and was so inspired by malice or sadism" as to amount to "a brutal and inhumane abuse of official power literally shocking to the conscience."[164] This has historically been used to punish teachers for inhumane forms of punishment against their students[165] but could be applied to coaches and their behaviors toward student athletes if their actions are for the purpose of disciplining the athlete.[166]

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157. *See supra* text accompanying notes 11–17.
158. *Chisholm*, 947 F.3d at 355 (White, J., dissenting).
159. *Chisholm*, 947 F.3d at 353; Kircher, *supra* note 142, at 800.
160. *See, e.g.*, Strauss, *supra* note 17; Tracy, *supra* note 17.
161. Kerr et al., *supra* note 14, at 83.
162. *Chisholm*, 947 F.3d at 356 (White, J., dissenting).
163. Hall v. Tawney, 621 F.2d 607, 613 (4th Cir. 1980).
164. *Id.*
165. *See, e.g.*, *id.*; Garcia *ex rel.* Garcia v. Miera, 817 F.2d 650, 653 (10th Cir. 1987).
166. T.W. *ex rel.* Wilson v. Sch. Bd. of Seminole Cnty., 610 F.3d 588, 598–99 (11th Cir.

This claim can be brought for emotional harm or physical harm suffered by students at the hands of school officials; however, no courts have found a substantive due process violation based on emotional harm alone.[167] In fact, some courts have held emotional harm to a higher standard than physical harm, requiring that the emotional harm equal the torture of forcibly getting one's stomach pumped by police.[168] This stems from the traditional belief that emotional harm is less serious than physical harm,[169] but society is moving away from that belief.[170] For example, in *T.W. ex rel. Wilson v. School Board of Seminole County*, a fourteen-year-old sued his teacher for violating his substantive due process rights.[171] T.W. was autistic and was placed in a particular class for individuals with autism.[172] His teacher would call him derogatory names and make fun of him until he became upset.[173] She would also restrain T.W. when he lashed out at her for her actions.[174] As a result of the teacher's actions, T.W. began urinating in inappropriate places, developed panic attacks, cried at school, and ultimately decided to drop out of school.[175] The court found that the teacher's actions were not so harmful as to "shock the conscience" and therefore held that she did not violate T.W.'s substantive due process rights.[176] In contrast, a student successfully raised a substantive due process claim after she was punished with spankings by the principal, resulting in a two-inch cut, back pain, and severe bruising,[177] thus illustrating the difference in the legal system's treatment of physical harm versus emotional harm.

2. Solutions

The Fourteenth Amendment substantive due process claim has not historically been used as a legal recourse for students against coaches, but it could be expanded by framing the coach's behavior as a form of discipline.[178] Abusive coaching practices are often framed as forms of punishment anyway, with the nature of the punishment being what is typically at issue in abusive coaching investigations.[179] Therefore, determining whether these actions fall under the substantive due process doctrine should not be an issue, even though they do not fit the mold of direct

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2010).

167. Emily F. Suski, *Dark Sarcasm in the Classroom: The Failure of the Courts to Recognize Students' Sever Emotional Harm as Unconstitutional*, 62 CLEV. ST. L. REV. 125, 127–28, 131 (2014).

168. *Id.* at 134.

169. *See id.* at 151–52.

170. *See* Pike, *supra* note 83, at 16, 19.

171. *T.W. ex rel. Wilson*, 610 F.3d at 593.

172. *Id.* at 593–94.

173. *Id.* at 594.

174. *Id.* at 594–96.

175. *Id.* at 596.

176. *Id.* at 602.

177. Garcia *ex rel.* Garcia v. Miera, 817 F.2d 650, 653.

178. *See T.W. ex rel. Wilson*, 610 F.3d at 598–99.

179. *See, e.g.*, Chisholm v. St. Marys City Sch. Dist. Bd. of Educ., 947 F.3d 342 (6th Cir. 2020); Douglas et al., *supra* note 36; Strauss, *supra* note 17; Tracy, *supra* note 17.

corporal punishment.[180] However, the standard for emotional harm under this doctrine is very harsh and will likely not be met by many instances of abusive coaching that lack a physical component. Courts should reevaluate heightened standards like the torture standard for emotional abuse in light of recent societal shifts toward recognizing physical and emotional harm as equally damaging.[181]

Instead, the plain language of the test set forth in *Hall v. Tawney* should be used to analyze all substantive due process claims regardless of whether the harm is physical or emotional in nature.[182] Adherence to the "shock the conscience" standard still allows a high threshold before school officials can be held liable for inappropriate punishments and is easier for courts to apply than trying to weigh the emotional harm of one's conduct against the physical harm of being forced to get one's stomach pumped.[183] Additionally, for abusive coaching specifically, the public's reaction to coaches' behaviors can serve as a strong indication of what verbal and emotional abuses should meet this "shock the conscience" standard."[184]

C. Negligent Retention and Supervision Claims Against School Administrators

1. Issues

Negligent retention claims allow harmed individuals to hold employers liable for the harmful actions of their employees if the employer knew of the employee's unfitness or failed to use reasonable care to discover potential unfitness prior to retaining the employee.[185] This claim has previously been used in cases where coaches have engaged in illegal activity with their athletes off school grounds[186] or in cases of sexual assault of athletes by coaches,[187] but the claim has not been extended to emotional abuse of students. Another issue with the application of this cause of action to abusive coaching is that some jurisdictions have immunity laws in place that prevent school districts and administrators from being held liable for harms resulting from their exercising of discretion or determining of policy as long as they were acting within their discretion.[188] Negligent retention has been found to fall within these immunity laws,[189] thus further shielding administrators from liability for failing to adequately act on complaints from students even if the students are able to prove negligent retention. Additionally, schools are already facing financial

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180. *See T.W. ex rel. Wilson*, 610 F.3d at 598–99; Hall v. Tawney, 621 F.2d 607 (4th Cir. 1980).

181. *See* Pike, *supra* note 83, at 16, 19.

182. *Hall*, 621 F.3d at 613.

183. Suski, *supra* note 167, at 134.

184. *Hall*, 621 F.3d at 613.

185. Anderson v. Soap Lake Sch. Dist., 423 P.3d 197, 206–08 (Wash. 2018); PC-41 Doe v. Poly Prep Country Day Sch., 590 F.Supp.3d 551, 566 (E.D.N.Y. Dist. Ct. 2021).

186. *See Anderson*, 423 P.3d at 206–08.

187. *Poly Prep Country Day Sch.*, 590 F.Supp.3d at 565–68; Doe 20 v. Bd. of Educ. of Cmty. Unit Sch. Dist. No. 5, 680 F.Supp.2d 957 (C.D. Ill. 2010).

188. *Bd. of Educ. Of Cmty. Unit Sch. Dist. No. 5*, 680 F.Supp. 3d at 988.

189. *Id.* at 989.

hardships in funding afterschool activities[190] and therefore creating further costs from defending and paying out lawsuits to injured athletes might further harm schools and result in less opportunities being provided for students.

Negligent supervision claims arise when an employer fails to exercise ordinary care in supervising their employees while the employee is acting within the scope of their employment.[191] Abusive coaching typically takes place on school grounds during practices and home games or at away games while the coach is still acting within the scope of their employment, so abusive coaching should easily meet the second prong of this test. In order to show that the school or its administrators failed to exercise due care in supervising its coaches, athletes would be required to show that the administrators knew or should have known of the dangerous tendencies of the coach.[192] Courts compare the school's supervision to that of a "parent of ordinary prudence placed in the identical situation and armed with the same information"[193] to determine whether the school failed to supervise their employee adequately.[194] In cases where administrative investigations have been triggered, the athletes have either alerted the administrators of their concerns with the coach directly or through their parents. If these subsequent administrative investigations fail to remove the offending coach, then the same information that was used to trigger the administrative investigation in the first place could be used to establish a negligent supervision claim. However, courts may be reluctant to trust the accounts of student athletes absent clear outside evidence, especially when lack of playing time or leadership positions could be influencing the student athlete's decision to report the coach to school administrators.

2. Solutions

Negligent retention and negligent supervision have not historically been used against schools for coaches causing emotional harm to their athletes. In order for abusive coaching to be sufficient to make a claim for negligent retention, it must cause such emotional harm as to make a coach unfit.[195] Negligent supervision requires that abusive coaching be considered a dangerous tendency.[196] Both of these high standards are not likely to be met given school administrations' general dismissiveness of emotional harm and abusive coaching in general.[197] Additionally,

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190. *See* Sean Coleman, *The Unfair Distribution of Athletic Funds in High School Sports*, PATRIOT HIGH SCHOOL CHARGE (Apr. 19, 2022), https://phscharge.com/2646/sports/the-unfair-distribution-of-athletic-funds-in-high-school-sports/ [https://perma.cc/VY8Y-5CQU]; Michael Leachman, Kathleen Masterson & Eric Figueroa, *A Punishing Decade for School Funding*, CTR. ON BUDGET & POLICY PRIORITIES (Nov. 29, 2017), https://www.cbpp.org/research/a-punishing-decade-for-school-funding.

191. *See Anderson*, 423 P.3d at 208.

192. *Id.* at 210.

193. PC-41 Doe v. Poly Prep County Day Sch., 590 F.Supp.3d 551, 569 (E.D.N.Y. 2021) (quoting Dia CC v. Ithaca City Sch. Dist., 304 A.D.2d 955, 956 (N.Y. App. Div. 2003)).

194. *See Poly Prep Country Day Sch.*, 590 F.Supp.3d at 569.

195. *Anderson*, 423 P.3d at 206–08; *Poly Prep Country Day Sch.*, 590 F.Supp.3d at 566.

196. *See Anderson*, 423 P.3d at 208.

197. *See generally* Chisholm v. St. Marys City Sch. Dist. Bd. of Educ., 947 F.3d 342 (6th

past findings of abusive coaching have not historically deemed a coach unfit for future coaching positions.[198] In order to allow for negligent retention and supervision claims for athletes subjected to abusive coaching, courts must align their rulings with society's shifting view of the dangers of the emotional harm caused by abusive coaching.

Another issue with negligent retention and negligent supervision claims against school administrators for the actions of their coaches is the presence of immunity laws that protect school administrators from liability for exercising their discretion in retaining coaches. This further disincentivizes administrators from acting on athletes' complaints even if there appears to be misconduct. In order to reduce these incentives and encourage school administrators to take the investigation process more seriously, these immunity laws should be interpreted or rewritten so that clear abuses of discretion are not covered. If these laws are reduced, this may result in more lawsuits and associated expenses for schools and administrators; however, the causes of action themselves are still difficult to prove, and many athletes and parents may be unable to pursue these claims. The purpose of removing the immunity safeguard and allowing causes of actions for negligent retention and supervision to reach the actions of abusive coaches is more so to force school administrators to take action and conduct more thorough investigations into instances of abusive coaching than to serve as a cause of action for affected students. School administrators who ignore initial complaints or other evidence of abusive coaching will suffer consequences later on in the form of negligent retention and supervision charges, which will encourage schools and administrators to protect themselves from liability by being vigilant in monitoring and investigating coaches.

D. Modification of Existing Practices Within Adolescent Sports

In addition to increasing the use of the legal system as a means of combatting abusive coaching, changing some of the current practices within adolescent sports could also help athletes successfully challenge their coaches' behavior. One potential change is establishing the policies governing administrative investigations at the state level. This will create uniformity across the state and will allow state athletic administrations to better monitor these investigations for potential missteps, which will more effectively prevent administrators from acting in their own self-interest.[199] These policies should be written to include behaviors to look out for that might constitute verbal or emotional abuse by school officials like schools already provide for peer-on-peer bullying or harassment.[200] Since adolescent athletes have a hard

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Cir. 2020).

198. The Maryland University head football coach and St. Mary's High School football coach were both previously fired over abusive coaching concerns and subsequently received coaching jobs at other institutions. *See id.* at 346.; Texas A&M, *Football Roster: DJ Durkin*, https://12thman.com/sports/football/roster/coaches/dj-durkin/1619 [https://perma.cc/CCS5-PNX7].

199. *See supra* text accompanying notes 120–26.

200. *See, e.g.*, RINGLING JR/HIGH SCH., *supra* note 114, at 13; YORKTOWN HIGH SCH., *supra* note 114, at 15.

time recognizing inappropriate coaching tactics,[201] having clear examples of abusive conduct can help them recognize when to report and also sets expectations for coaches on what behaviors will not be tolerated. Athletes are currently disincentivized from reporting abuse because administrative investigations often result in no findings of misconduct,[202] but if they know ahead of time that they are likely to prevail on their claim, then they will be more likely to come forward. Additionally, policies should provide athletes with neutral individuals outside of their schools that they can report to so that victims are no longer forced to face their abusers in order to get help.[203] This is much easier to do if the procedures are instituted at the state level instead of the school level.

One major issue in resolving athlete complaints of misconduct by coaches is that there is little evidence other than the complaints themselves and the coach's side of the story.[204] This makes it difficult for investigators to effectively carry out justice because it is difficult to discern whether the coach has abused their athletes absent clear wrongdoing or an overwhelming number of similar complaints. One potential solution to this lack of evidence is to institute a policy that requires coaches to record practices. This policy could even go as far as requiring coaches to wear body cameras while coaching. The footage could then be transferred and stored with the athletic administration and potentially in a location accessible to athletes. One downside of this solution is schools will have to provide funding to purchase and service the necessary equipment and software. This would provide athletes with hard evidence of abuse and would give coaches a way to protect themselves in the event that the accusations are false. Additionally, coaches may be more likely to refrain from inappropriate behaviors if they know they are being recorded.

CONCLUSION

Abusive coaching is pervasive in youth sports, yet the mechanisms currently in place to address this misconduct fail to effectively stop abusive coaching. Recently, there has been a move toward being more critical of how coaches behave and the effects that poor coaching tactics can have on mental health; however, emotional and verbal abuses toward minor athletes still largely go unpunished. The primary method for resolving complaints against coaches is through administrative investigations and the nature of these investigations and the policies that govern them leave room for unjust results. Additional mechanisms are necessary to combat abusive coaching, hold administrators accountable for failing to conduct reasonable investigations, and punish wrongdoers. The legal system and state-level anti-bullying policies could serve as a way to address these issues. Participation in sports provides many benefits,

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201. *See* Stubbs, *supra* note 37.

202. *See* Alexander et al., *supra* note 14, at 1295; s*ee, e.g.*, Douglas et al., *supra* note 36; Riddle, *supra* note 64.

203. *See Addressing the Issue of Verbal, Physical and Psychological Abuse of Athletes*, WOMEN'S SPORTS FOUND. 1, 5 (Aug. 30, 2016), https://www.womenssportsfoundation.org/wp-content/uploads/2016/08/addressing-the-issue-of-verbal-physical-and-psychological-abuse-of-athletes-the-foundation-position_final.pdf [https://perma.cc/3LED-4E3P].

204. *See* Strauss, *supra* note 17; Tracy, *supra* note 17.

including better physical and emotional health, but abusive coaching can counteract these benefits if the mechanisms in place to stop harmful coaching tactics are ineffective.