

Section V

Member Information & Consultation Program

NASO provides industry-leading insurance products and information services for its members. The Member Information and Consultation Program (MICP) is the best source available for officiating-related information. MICP services are provided at no charge to NASO members.

MICP is without parallel in the world of officiating. It is the only program providing officials much needed help regarding the important officiating business and legal matters that affect them today. Never before has such protection and assistance been more needed. Assaults, your rights and responsibilities as an official — all of those issues and more are addressed through the MICP program.



This Chapter takes you through the MICP program in detail and gives you real case studies of NASO members' situations — and how the MICP program helped.

In today's environment, you must be protected and armed with great information. The MICP program — the only one of its kind specifically for sports officials — has you covered.

In addition to access to NASO's Legal Library, NASO members have access to other professionals in various fields.

Who may use the MICP program?

All persons currently entitled to NASO benefits (herein referred to as "members").

How does the program work?

When some issue related to your officiating is concerning you and you wonder what to do, NASO's new MICP is here to help you. MICP is available to all NASO members. Former members are also included for an issue or occurrence which arose when that person was a member, which is consistent with NASO's general liability insurance extended coverages for members (through NASO's Sports Officials Security program).

MICP has two parts:

1. A free Information Program handled by the NASO staff.
2. A free Consultation Program handled by both the NASO staff and consultants to whom the staff may direct you.

We use the word “free” even though members’ dues cover the costs of MICP there is no separate or additional charge for its use.

The initial use of MICP always starts with the NASO staff. Contact the NASO offices at 262-632-5448.

The Information Program

NASO staff will provide, free of charge but subject to availability, generic forms and documents such as model bylaws for officials associations, sample contracts or codes of conduct, reprints of relevant articles, etc. The NASO staff will discuss general information as to common arrangements related to officiating. The generic documents are basically guide-like forms that are sold in stores; modifications will usually be required for particular situations and independent professional advice, outside of MICP, is strongly recommended. There are no limits on frequency of use under this Program.

The Consultation Program

If the NASO staff determines that the questions or concerns presented go beyond what it provides under the Information Program, the staff may recommend a general information consultation, free of charge, with a knowledgeable person who can help in evaluating the situation. The consultant will be whomever the NASO staff considers appropriate.

An MICP consultant will not provide services reserved to any licensed profession. In a case in which it seems further help or professional advice is required, a participant may request the consultant to help find an adviser outside the Program. If so requested, the consultant will generally be able to find, for the member, the names of persons or companies that appear to be experienced and knowledgeable in the area involved; these would merely be leads and not recommendations. Members requesting such leads are advised that providing them is solely an accommodation and that no endorsements or warranties are involved. That is the last step under MICP.

The free consultations are limited to three matters a year per member. (See p. 33 for more information.)

Confidentiality, Conflicts, Liability and Acceptance

1. Confidentiality. The confidentiality of communications, oral or written, will be reasonably preserved by NASO staff and the consultants. However, there may not be confidentiality protections under the MICP Programs as there are for privileged communications with lawyers and some other professionals. This means that if a member has an adversarial situation and litigation results, NASO, NASO staff working under the MICP Information Program and any consultant serving under the MICP Consultation Program can be subpoenaed

and might be forced to disclose all communications, oral or written, with the member. Therefore, members when using the MICP Programs should not disclose any information they would not want revealed.

2. Conflicts. If it appears that an adversarial situation exists between two or more NASO members or an NASO-ON organization, MICP may decline services to all parties.
3. Liability and Warranty Exclusions. Neither NASO, NASO staff, MICP or any MICP consultant shall have any liability to a member arising out of the member's use of MICP. This means the member assumes the risk of unwise or inappropriate guidance or information under MICP; **there are no warranties, express or implied, of correctness, suitability or fitness of the forms or guidance provided or not provided under MICP.**
4. Acceptance. Use of MICP constitutes acceptance of all the above provisions.

History

NASO's original program, the Legal Information and Consultation Program (LICP), launched in 2005. In 2007, LICP was discontinued and the Member Information and Consultation Program (MICP) was launched. There were two important reasons for that:

1. The name LICP may have implied to some that a member could establish an attorney-client relationship in the free consultations; that was untrue.
2. The name LICP may have also implied that LICP was limited to the type of issues which are primarily handled by lawyers; also untrue as all issues involving officiating are covered.

In addition, LICP was limited to current members, which was inconsistent with NASO's liability insurance program's permanent coverage for a former member so long as that person was a member at the time of occurrence. Therefore, NASO is permitting former members to use the new MICP for an issue that arose or an occurrence that happened while a member.

Section VI

Special MICP Articles

As an NASO member, you have access to MICP opinions and articles written by professionals. The articles deal with all of today's most pressing issues, including background checks, independent contractor status, assaults, contracts and more.

Following are several sample articles, the type NASO members read every month.

Proposed Contract Hurts Officials

A recent inquiry by an NASO member revealed that his local officials association was offered a “loaded” contract. The member, an officer of a local wrestling officials association, had succeeded — or so he thought — in landing a three-year contract for his association to work a major high school conference covering two counties.

Faced with a daunting five-page document, with detailed provisions in the conference's favor covering such legal niceties as “waiver,” “indemnification,” and release from liability, that local association officer placed a call to NASO's MICP program.

The Situation:

The contract in question provided for the conference to “hire” the officials association to referee its dual and tri-meets, quads and exhibition matches for the next three seasons. While the league had the right to establish procedures, rules and performance criteria — and to evaluate officiating performance — the contract stated that the officials were engaged as independent contractors and not employees. After reciting that the officials association would be paid on a per game or meet basis — and not on a salary or time basis by each member school — the contract went on to caution that the conference would not provide any benefits by way of training, insurance or workers compensation. In fact, said the contract, the officials were to be independent contractors for all purposes and not entitled to any benefits normally conferred on employees, unless provided by the officials association. All that may have been well and good for the officials association. But wait! There's more!

The Problem:

The fee schedule attached to the contract set fees during the first year: from \$45 for a dual meet up to \$160 for an eight-team tournament. For those princely sums, the officials association would have had to agree to bear the sole responsibility for any claims or lawsuits against the conference, its officers, the member schools and school board relating to the officials' services. Under the contract, even if the conference personnel or member school personnel were negligent under the law, the officials association would still be liable for all of the conference's and schools' attorneys' fees

and damages awarded. For example, if a wrestler was injured in a match, and a lawsuit was brought charging that the coach taught an illegal and dangerous hold and the referee allowed it, the officials association would pay all attorneys' fees and any verdict for damages — even against the coach!

In addition, the officials association would have had to bear the sole responsibility for any injury to an official — whether caused by the negligence of the conference or school personnel or not.

And, as if it wasn't enough, the officials association would have had to bear the sole responsibility for any taxes or fines levied by the government were the officials determined by the tax authorities to be employees and not independent contractors.

The Resolution:

The NASO member/association officer received an ASI initial consultation and then hired an attorney. The proposed contract was a comprehensive risk management device for the conference — and potentially disastrous for the officials association. While agreeing to engage the association's members for a three-year period with fees fixed for each season, the conference limited its liability by (in simple terms) making the officials association — and its members — liable for virtually any legal exposure that could come about during a wrestling match or involving an injury to a student-athlete, spectator or even another official. Any association officers signing such a document would expose both their association and the individual association members to potential legal liability for damages and attorneys' fees for virtually any claim against the schools relating to the “on the mat” activity of wrestling matches. Potential claims could include:

1. Injuries to wrestlers.
2. Lawsuits involving suspensions of student-athletes and coaches for unsporting conduct.
3. Legal liability for employment taxes, fines and assessments should the government disagree with the conference's characterization of the legal and tax status of officials.

Even assuming every official in the association is willing to be legally liable for all lawsuits connected to wrestling matches, as well as government assessments against the conference, the financial and insurance burden on the association would be insurmountable. Such a contract takes all laws governing civil liability for negligence, taxes and labor and workers compensation and deposits all responsibility for compliance on the officials! An insulting proposition to be sure! That type of overreaching is not only unfair, it is downright offensive.

The NASO member went back to the league to have modifications made to the contract. The league is considering those modifications. Without modifications made, the group would not sign the contract.

The contract was modified to eliminate the unfair and unreasonable provisions. ■

MICP:

Legal Q&A

Criminal Background Checks

Q: I don't have anything to hide, but I'm philosophically opposed to officials being subjected to criminal background checks. The problem is I refused to be checked and now no longer can work in our youth league. I also now have to deal with untrue rumors that the reason I'm not working is because they found a red flag in my background. It's doing damage to my reputation and all I did was decline the check. Do you have advice for surviving this witch hunt?

A: Generally, employers and youth leagues can do a criminal background check with your consent. The consent requirement is a graceful way for people objecting on principle, like you, or with something to hide to not get caught in the background check. If you fail or don't consent, then the employer or youth league can refuse to use your services.

Background checks are prevalent in youth sports because a lot of people have abused youths. The trend is to err on the side of protection. It is NASO's general recommendation that officials consent to background checks. In 2006, the NASO Board of Directors adopted a position paper on the subject, which is found on the NASO website (www.naso.org).

A lot of states have legislation that requires that anybody who has unsupervised access to students must undergo a criminal background check. Sometimes you can get out of the background check by showing you don't have unsupervised access. A doctor at a football game doesn't have unsupervised access to students because he's treating players in front of 10,000 fans. An athletic trainer, though, is in the training room with students without supervision. A school may want to run a background check on the trainer.

Often sports officials can get out of the criminal background check because they don't have unsupervised access to students. If you can establish that officials never have unsupervised contact with the youth in your league, maybe they'll exempt officials and save some money by not running the background checks — but we doubt it.

There are limits on what type of convictions can and cannot be used in some states. Also, employers and youth leagues shouldn't release the information, as it can lead to legal problems. But if an employer doesn't release the information and never utters a word, then the official who is subject to false rumors that he did something wrong is probably out of luck.

Advice: Let them check.

Defamation in Local Paper

Q: Our local paper wrote a story about a game I refereed. Though I was never called out by name, there were many disparaging things written about me and my performance. The things written weren't only insulting, they were flat-out wrong. The "reporter" didn't seem to know the rules and wrote, "The ref who assessed that technical was horrible the entire game and should never be allowed to work in (this city) ever again." Do I have any recourse? Or do I have to allow this so-called reporter to disparage my reputation?

A: A lawsuit against one who makes disparaging statements about a person in the public eye, such as an official, presents challenges in most jurisdictions. The most serious is to prove that the disparaging statements were statements of fact — not just opinion or commentary — and that they were false. If it's proven at trial that the disparaging materials were "statements of fact" and false, the reporter may be liable if it is also determined you are not a "public figure" under the law. While in some cases, even public figures can successfully sue for libel, the standards to win are more rigorous. Most courts that have considered such cases, however, have ruled that referees are public figures. Following consultation with ASI you should consult an attorney, who might have been suggested by ASI or separately chosen by you, for the specifics of defamation law in your state and how the courts would view particular statements. Most importantly, you must consider whether the "cure" of a lawsuit (which you may lose) is worse than the "disease" of the reporter replaying all your calls before a jury in an open courtroom in an attempt to prove your incompetence or bias. For that reason, it's unlikely that you would benefit from days or weeks of public testimony — and the mandatory news accounts — of just how "horrible" you were on the night in question and other games. Under normal circumstances, an ignorant sportswriter's biased and uneducated view is regarded by knowledgeable people as just that. In some cases, however, the intervention of the legal system might warrant the expense and uncertainty, particularly if your ability to work as an official is impaired. Good luck and we expect you will make the right decision.

Section VII

MICP Case Studies

Real officials. Real problems. Real answers.

The following are actual incidents handled by NASO through the MICP program. NASO members received supporting documents, advice and initial consultations as part of their membership.

Taxing Issue

I am preparing my income taxes myself and want to know what officiating-related expenses are deductible.

MICP Action: NASO directed the member to the NASO website — www.naso.org — and the Tax Tips found there.

Resolution: The member found the officiating-specific answers on the NASO site, saving time and money.

Association Money

Our local association officers are not revealing the association's financial statements. What should the membership do?

MICP Action: NASO staff contacted the member, providing solid advice based on the Legal Library.

Summary of Response: At issue is governance and expectations. The group should have bylaws. Check to see if there is an annual reporting requirement. Associations should also have annual independent audits. All dues paying members have a right to know how their money is being used. If the officers are not being forthright with information, there should be mechanisms in place to have them removed (voting, etc.).

Resolution: The member reviewed the bylaws, contacted the board in a professional manner asking them to comply with the bylaws and all members received the financial statement.

Official Owed Money

I am owed about \$800 from our local officials association. I don't know if the money is missing or why I can't get my check. I've contacted the board president and have not heard back yet. What should I do?

MICP Action: The member was referred to articles in our Legal Library.

Summary of Response: The Legal Library articles explained a signed contract is important in this matter. It may contain remedies for such a situation. Contact the association president in writing via certified mail. Since the amount of money is relatively small, small claims court may be an option to consider, though you could tie up some court costs that don't make that option attractive. If the games are governed by a higher authority (like a state or national association), inform it of the situation. Finally, contact other officials working for the group. If there are others with similar problems, you might be able to force a settlement. The legal option is always there; you just have to decide if it's enough money to go that route. The obvious additional solution is to not work for that group again.

Resolution: The member has contacted the association leader to no avail. The member used the MICP Consultation Program and is considering legal alternatives.

League Allows Jewelry

I officiate in a league that is about to approve a rule that allows players to wear jewelry. Will I be released from any legal action if a player was hurt because of the jewelry?

MICP Action: NASO contacted the member to share information from its Legal Library and sent two related articles. NASO also consulted with its professional team and insurance carrier for specific answers.

Summary of Response: Anytime a safety rule is set aside, there is reason to be concerned. It is important that the league put the new rule in writing. Once that exists, much of the burden is likely on the league. As an NASO member, you are covered by NASO insurance if you officiate in that league since the league changed the rule.

If you are in a position to influence the league's decision regarding player safety, you should do so in writing. It is helpful if you go on record in writing and share your concerns about the new rule with league authorities. One of your primary responsibilities is safety. You do have NASO insurance to protect you.

Resolution: The league has postponed the jewelry modification rule until further review. The member has decided that if the rule goes into effect, the member will not officiate in that league due to the liability concerns despite the NASO insurance protection.

Was I Assaulted?

I was involved in an incident at a youth basketball tournament in which a fan approached me, yelled at me and threw a beverage on me. I filed a police report and have written a game report. I need to know if the actions are considered an assault. If I want to pursue charges, what should I do?

MICP Action: NASO put the member in touch with ASI for a free initial consultation. ASI also put the member in touch with a local attorney in the member's hometown, since the member is considering legal action on his own. Since this is an assault situation, the NASO insurance program will help with attorney's fees.

Summary of Response: Filing a police report and immediately writing down details in the game report were the right thing to do. By the description given, this could be classified as an assault. Until you meet with the local attorney, do not talk to anyone from the league about the incident.

Resolution: The local district attorney is reviewing the charges.

NASO Members Have Assault Protection

NASO's "Assault Protection Insurance" also helps with these types of matters. Members may qualify for up to \$3,000 reimbursement of attorney fees incurred by a member in bringing a claim against the perpetrator. If the NASO member was hurt, up to \$5,000 of assault accident-medical coverage may be provided. Plus, if an assaulted member misses any officiating assignments, NASO insurance may pay up to \$500 in lost game fees.

Player Breaks Leg; Referee Deposed

I have been asked, along with the other members of my college football crew, to give a deposition regarding a player injury that occurred in a game we officiated. The player is suing the school district for the injury, but the suit does not name the officials — yet. We did file an incident report at the time of the incident, over two years ago. What should I do?

MICP Action: NASO put the member in touch with ASI for a free initial consultation. Since the NASO member was not named in the suit, NASO's liability insurance is not a factor. If the official is named, NASO's \$3,000,000 per claim policy would engage and protect the member.

Summary of Response: Do not voluntarily communicate with the player's attorney. Wait for them to subpoena you. The situation requires the assistance of counsel.

The official was then subpoenaed to testify. ASI's legal counsel consulted with the member about what questions to answer and how to answer them.

Resolution: The NASO member handled the deposition and the officials have not been named in the suit.

Section VIII

The MICP Legal Library

As an NASO member, you have access to hundreds of articles and other legal resources through the MICP program and NASO's Legal Library.

NASO members can reference and use carefully crafted documents like:

- Model Contracts
- Model Legislation
- Model Bylaws
- Model Code of Conduct
- Model Covenant

All written and approved specifically for sports officials.

**MODEL CONTRACT BETWEEN
A MUNICIPALITY AND A
SPORTS OFFICIALS' ASSOCIATION**

Please note that this is a "Model" and may have to be modified to fit the particular circumstances of your local association and/or municipality for which you officiate. Also, it is based upon general principles of law; therefore, you should review it with a local attorney prior to using it due to differences of state law.

The _____ (City) located at _____

and The _____
Sports Officials' Association, Inc., a Not-For-Profit Corporation of the
State of _____ (Association), located at _____

agree on this _____ day of _____, 199____ as follows:

**MODEL BY-LAWS
FOR A LOCAL SPORTS OFFICIALS' ASSOCIATION**

Please note that this is a "Model" and may have to be modified to fit the particular circumstances of your local association. Also, it is based upon general principles of differences of state law.

The Association, Inc., A Not-For-Profit Corporation of the State of _____

BY-LAWS

ARTICLE I - NAME

Section 1. NAME: The name of this corporation shall be The Sports Officials' Association, Inc. A Not-

Code of Conduct for Sports Officials

1. Officials shall bear a great responsibility for representing public confidence in sports.
2. Officials shall be free of obligation to any interest other than the impartial and fair judging of sports competitors.
3. Officials shall hold and maintain the highest levels of officiating which include: honesty, integrity, neutrality, respect, sensitivity, professionalism, discretion and tactfulness.
4. Officials shall master both rules of the game and mechanics necessary to enforce the rules, and shall exercise authority in an impartial, firm and unswerving manner.
5. Officials shall uphold the honor and dignity of the profession in all interactions with student-athletes, coaches, school administrators, colleagues, and the public.
6. Officials shall display and execute superior communication skills, both verbal and non-verbal.
7. Officials shall recognize that anything which may lead to a conflict of interest, either real or apparent, must be avoided. Gifts, favors, special treatment, privileges, employment or a personal relationship with a school or team which can compromise the perceived impartiality of officiating must be avoided.
8. Officials shall prepare themselves both physically and mentally, shall dress neatly and appropriately, and shall comport themselves in a manner consistent with the high standards of the profession.
9. Officials shall not be party to actions designed to unduly limit or restrict access to officiating, officiating assignments or to association membership. This includes selection for positions of leadership. This includes selection for positions of race, ethnicity, age, sex, physical handicap, country or national origin.
10. Officials shall be practical and professional in the fulfillment of all contractual obligations.
11. Officials shall work with each other and their governing bodies in a constructive and cooperative manner.
12. Officials shall resist every temptation and outside pressure to use their position as an official to benefit oneself.
13. Officials shall never participate in any form of illegal gambling on a sports contest, may never gamble on any sporting event in which they have either a direct or indirect involvement, and may never gamble on events involving high school athletes.
14. Officials shall not make false or misleading statements regarding their qualifications, rating, credentials, experience, training or competence.
15. Officials shall accept responsibility for all actions taken.

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A Covenant With Sports Officials

PREAMBLE

Sports officiating is an honorable profession requiring those who engage in it to have strong faith, moral character and integrity. Officials must be fair-minded and unswerving. They are expected to enhance and adhere to the Code of Conduct for Officials, as adopted by the Officiating Development Alliance in January, 2002.

It takes a special person to be an official. Sports officials bear great responsibility for representing public confidence in sports. They are critical to the health of athletic competitions, rules, within the spirit of the rules and in a safe manner. Officiating takes a great deal of preparation, continuing education, and commitment of time. Much is asked of those who officiate.

Therefore, those organizations and individuals that assign, evaluate or require the use of officiating services are hereby asked to resolve and affirm the following:

- 1) That game assignments and career advancement be provided without regard to age, sex, race, national origin, religion or other factors unrelated to the ability to properly perform officiating duties.
- 2) That effective security be provided to protect sports officials from physical assaults, sexually verbal abuse and the loss of, or damage to personal property, from the time of arrival at the game site through the time of departure.
- 3) That efforts be supported to limit the liability sports officials can incur as a result of the reasonable and customary decisions they make in fulfilling their officiating duties.
- 4) That the obligations sports officials are expected or required to fulfill be clearly communicated, preferably in writing, in advance of when those obligations are to be carried out.
- 5) That sports officials who are subject to an allegation concerning alleged improper or inadequate treatment and an opportunity to respond to the findings through a prescribed appeal process before disciplinary measures are taken.

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Plus, the Legal Library includes hundreds of article and feature stories from *Referee* magazine, the nation's leading officiating publication. In-depth stories on:

- Background checks
- Liability
- Independent Contractor
- More



EVERYTHING YOU NEED TO KNOW ABOUT BACKGROUND CHECKS



BACKGROUND CHECKS ARE BECOMING MORE COMMON IN THE OFFICING INDUSTRY BY THE HOUR. READ UP ON THE BEST PRACTICES AND PROCEDURES OFFICING LEADERS SHOULD FOLLOW.

More and more officiating organizations are turning to background checks as a way to ensure the safety of their players and the integrity of their sport. The process of conducting a background check can be complex, but it is a necessary step in the hiring process for many officiating organizations.

Of 37 million background checks conducted in 2009, 35 million were for employment purposes. The remaining 2 million were for other purposes, such as rental applications, insurance, and more.

COURT PRESENCE

11 Cases That Made a Difference



Are officials really the final authority on the court? And if a court of law has "overruled" you? What other guidance and tips do officiating courts offer? Find out how more important cases affect the job you do when you get on the court.

Victims and defendants alike are often surprised to find out that the court can be a very powerful force in the officiating industry. The court can be used to resolve disputes, set precedents, and even change the rules of the game. This article explores 11 cases that have made a difference in the officiating industry.

INDEPENDENT CONTRACTOR or EMPLOYEE?

Are sports officials independent contractors or employees? This question has caused a lot of confusion in the officiating industry. This article explores the differences between the two and provides guidance on how to determine your status.



Why is it so difficult to determine if you are an independent contractor or an employee? The answer lies in the details of your relationship with the organization you work for. This article provides a checklist of factors to consider when making this determination.

LAW ISSUES AFFECTING OFFICIALS

Choose Words Carefully When Communicating

In the officiating industry, communication is key. However, it is important to choose your words carefully to avoid misunderstandings and potential legal issues. This article provides tips on how to communicate effectively and avoid common pitfalls.

What happens if you are injured while officiating? This article discusses the importance of having proper insurance and how to handle such situations. It also provides information on the National Officiating Council's (NOC) insurance program.

NASO's Legal Library extends beyond the magazine. The wealth of legal information for your review through the MICP program includes:

- NASO's Members-only *It's Official* monthly newsletter
- The National Association of Sports Officials-Organizations Network (NASO-ON) *ONBoard* newsletter, dealing specifically with association business
- NASO's website at www.naso.org ■



Section IX

MICP FAQs

The most common questions about the MICP program.

Do I have to pay extra for the MICP program?

No! It is a part of your annual NASO dues. It is among the exciting benefits NASO provides members.

Does MICP tie into NASO's insurance benefit?

Yes. MICP contains an information and consultation program provided by ASI, NASO's insurance representative. In addition to MICP, NASO offers the nation's best insurance package, including:

- \$3,000,000 per occurrence with a \$4,000,000 personal annual aggregate general liability covering claimed bodily injury and property damage — officiating's best!
- Up to \$50,000 Game Call and Assignors' liability which covers you for your game calls and assignments you make even when there is no bodily injury or property damage claimed — NASO exclusive!
- \$5,000 heart or circulatory malfunction death benefit — NASO exclusive!
- The nation's only Assault Protection Program, with up to \$3,000 in legal services reimbursement, accidental medical coverage and game fee protection if you are assaulted
- NASO members also receive *Referee* magazine, the industry leader, and access to hundreds of other educational products

If I am not an NASO member, but have a professional services issue, can I become an NASO member and instantly access the MICP program?

Yes! Once you are a member, you can access the MICP program immediately and ask any officiating-related question. It doesn't matter if your situation is new or old, MICP will help.

If I decide to pursue civil litigation in a non-assault situation, will NASO pay for my attorney fees under MICP?

NASO will provide you with your free initial consultation through the MICP program. If you decide after that consultation to file suit, those expenses are yours to incur. (If it is an assault situation, you could qualify for up to \$3,000 in legal services reimbursement.)