Student-Athlete Social Media Restrictions: U.S. Constitutional Concerns

Joshua Bowles, University of Tennessee, Knoxville
James Bemiller, University of Tennessee, Knoxville

Legal aspects

Friday, June 5, 2015 2:10 PM

Abstract 2015-135

Collegiate student-athletes in the United States have become front-page news for uses of social media following on and off-the-field incidents (CBS News, 2014). Former University of Mississippi basketball player, Marshall Henderson, had multiple outbursts on social media ranging from arguments with media members and fans to a homophobic message that he claimed was for a psychology experiment (Eisenberg, 2014). Both coaches and administrators have placed increasing pressure and responsibility on student-athletes as virtually everything they post to social media can quickly become a news story. The result has forced many coaches to place a series of restrictions on athlete use of social media, i.e., Twitter and Facebook.

One of the more controversial stances has been the outright ban of social media use either for an entire team or a restriction of use during the playing season. University of South Carolina head football coach Steve Spurrier has implemented a yearly in-season ban for his student-athletes following a 2011 incident where a football player posted information of a teammate’s arrest on Twitter (Sporting News, 2011). Schools that impose similar bans include University of Louisville men’s basketball, Purdue University men’s basketball, Florida State University football, and Towson University football, among others (Paulson, 2012; Brunner, 2013). These restrictions have raised issues relating to the student-athlete’s U.S. Constitutional First Amendment right to freedom of speech as well as the issue of prior restraint, or the censorship of speech before it takes place.

Limiting access to social media poses a number of potential negative outcomes for the student-athlete. Many faculty members are now using social media as part of classes as an educational and professional tool. Student-athletes are being recruited nationally and internationally meaning they may live long distances from their families and use social media to communicate with those at home. In this digital age, the more successful, high profile student-athletes have to leverage and grow their brand much sooner, which could put student-athletes that cannot use social media at a disadvantage and affect future earnings potential (CoSIDA, 2014). While controversial at times, 2012 Heisman Trophy winner Johnny Manziel used social media to grow his brand among more than one million Twitter followers before even playing a snap in the National Football League (Rovell, 2014).

Social media bans have been put in place at a time when coaches are increasingly using social media to build their own brands to recruit and promote their programs (Thamel, 2011; June, 2014). The NCAA has implemented sweeping reform to allow social media accounts to be used in recruiting correspondence of the same student-athletes who could play for coaches that have a ban in place (NCAA, 2012). Most recently, the decision to allow Snapchat, the widely controversial video and image sharing social network, to be used in recruiting has raised many concerns due to the inability to monitor most interactions (Patterson, 2014). This double standard has made it more difficult for coaches to police or monitor their student-athletes on social media.

The purpose of this presentation is to examine the balance between the competing interests of the student-athletes' First Amendment right to free speech through the use of popular social media platforms and the government sponsored institution’s interest in controlling and protecting its athletic department brand by limiting or banning social media speech by student-athlete representatives of the institution. Using legal case study analysis, the seminal controlling precedent have been examined which pertain to student free speech rights in an educational setting as well as the rights of institutions to limit student speech particularly in the athletic setting. Previous case law has examined this issue, primarily in relation to off-campus speech for students, generally student journalism or cause-based protest cases. The U.S. Supreme Court case of Tinker v. Des Moines (1969) is widely cited regarding whether or not the content of student speech would result in a “substantial disruption”. Other widely cited cases examine whether or not intercollegiate athletics is a voluntary extra-curricular activity, which would hold lesser protection.
than student speech or conduct in an academic setting. At least one state, California, has held that extra-curricular activities are an integral part of the learning experience (Hartzell v. Connell, 1984).

The rise of popular social media applications being applied to student-athletes in a collegiate setting is an intersection of these different lines of case law. This study explores the legal arguments for student-athlete rights, specifically freedom of speech. Could a student-athlete or group of student athletes successfully challenge a coach’s ban of social media under the current case law and previous legal precedent? What role could designating these bans as a prior restraint play in the implementation of restrictions once he or she enters an athletic program? By comparing cases from these various topics and decades, the legal evolution can be traced and analogies applied to the current explosion of personal social media use by student-athletes. (Andrew, Pedersen, & McEvoy, 2011).

No student-athlete has ever challenged a social media ban, but this study aims to discuss the legal parameters and describe the options for both student-athletes and administrators when managing social media restrictions. It is also important to explore these legal issues in the context of the NCAA’s role as a governing body in protecting the rights of student athletes at member institutions.


In conclusion this work offers a variety of suggestions and recommendations to better protect the legal rights of student-athletes and institutions. Two of the recommendations for athletic administrators include student-athletes knowingly and voluntarily waiving their constitutional rights similar to administrative actions in other areas of education, such as HIPPA or FERPA, and the controversial designation of student-athletes as employees of the university. Discussion of these and other recommendations should promote better dialogue and understanding of the legal parameters of this uniquely popular phenomenon.