When Rule Changes Don't Follow the Rules: An Ethical Policy Case Study Analysis of the Jack Jablonski MSHSL Ice Hockey Rule

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This paper analyzes the 2012 Minnesota State High School League (MSHSL) ice hockey rule change in conjunction with the highly publicized Jack Jablonski and Jenna Privette paralyzing injuries. This case study is unique as two separate ice hockey player injuries within close proximity caused an unprecedented mid-season high school policy change/implementation resulting with a penalty minute rule change from the option of a Rule 4-2 two-minute minor penalty to Rule 4-3 automatic five-minute major penalty for Rule 6-4 Boarding and Rule 6-8 Contact to the Head, along with an automatic major plus Game Misconduct for Rule 6-7 Checking From Behind. The significant impact of this change to how ice hockey is played at the high school level, along with the speed of the policy change, justifies analysis. This ethical analysis, via qualitative interviews of players, coaches, MSHSL administrators, and officials (n=6), determined that the MSHSL created and implemented their mid-season rule change in a non-ethical manner.

The demand for policy analysis often arises in most industries from knowledge gaps about how to confront public problems from which a solution must be found (Mintrom, 2010). Within all analyses, ethical underpinnings and questions must be revealed in a context specific manner. This contextual comprehension is critical within the ethical analysis of this current policy, which has both strong supporters and proponents. Additionally, it is the focus on the ethical policy elements that provide the foundation for a sound analysis. Mintrom (2010) provides that, consideration and context of the aspects of ethical practice can inform each of the essential elements of policy analysis. It is this ethically guided scope that provides the foundation for a unique review of this MSHSL (2012) policy implementation and rule change process.

Procedural Fairness Lens

Using a procedural fairness lens, the main principles highlight the fairness and the transparency of the processes by which decisions are made (Tyler, Rasinski, & Spodick, 1985), which was lacking by the MSHSL in this context. Throughout this analysis, the key principle of transparency (Dawes, 2010) is applied to the decision-making process of this MSHSL rule change and the effects on the Minnesota ice hockey stakeholders. Procedural fairness principles additionally state, per the National Defense University (2014), that it is the responsibilities of public officials to ensure their actions serve the public’s best interest. Additionally, their power as public officials must be used fairly and for the benefit of the public.

A procedural fairness framework also calls for the decision-making process to be made, carefully, honestly, and objectively, with the knowledge that even a process of the greatest integrity does not always produce certainty (Josephson, 2010). Josephson’s (2010) definition of procedural fairness fits within the context of this MSHSL rule change process, as the Jablonski injury yielded an immediate call for change amongst many in the high school ice hockey community. The procedural fairness lens, in context of this rule change, is also appropriate. This lens aligns within the MSHSL (2012) context as the proponents for change understood that whatever decision was made might not be perfect, but that something less than perfect might have to do temporarily for the safety of the student-athletes.

Method

A single case study of the MSHSL 2012 mid-season ice hockey rule change was used to explore the ethical issues and outcomes of this policy revision. In the case of the Jablonski and Privette injuries, the 2012 MSHSL mid-season policy revision pertains to the problem-solving characteristic, as it is orientated in the solution of a real-world problem (Howlett & Ramesh, 2003). The primary data for this analysis were archival documents including memos sent from the MSHSL, organizational websites, newspaper articles, and social media sources. Additional secondary data is forthcoming and will be collected from supplementary qualitative interviews with sport industry professionals.
A discussion guide directed these conversations to obtain rich and thick qualitative data with the various stakeholders groups of the MSHSL. These stakeholders provided their opinions and revealed their awareness of the rule change proposal prior to implementation, their role in the revision process, the transparency of the process, if they felt they had a voice in the process, and if they approved of the end result.

Results

This study revealed preliminary results of stakeholder knowledge gaps during the policy change process (Sabatier, & Weible, 2014) and transparency issues (Bandsuch, Pate, & Thies, 2008) of that change process post-implementation. The ethical principles of procedural fairness (Alexander, & Ruderman, 1987) and Tyler’s (1994) four basic expectations in public policy creation of voice, neutrality, respectful treatment, and trustworthy authorities were matched to this policy analysis based on their close ties to process transparency. Ultimately, failed procedural fairness expectations of voice and neutrality (Devroe, 1997) were identified. This ethical policy analysis has yielded the importance of voice and neutrality in a rule change process. This research recommends to the MSHSL that these ethical characteristics be taken into account in the greatest extent for all future policy revisions. It is impossible to know the practical significance of these ethical ideals under a mid-season policy change that was not heavily scrutinized due to critical injuries. Additionally, there is much to be learned from history and this policy analysis serves as a guide towards creating an improved ethical process for future decision-making. Therefore, this analysis recommends that future MSHSL policy revisions of any sport must take into account the ethical nature of the rule change process.

Suggestions for Future Research

This procedural fairness analysis identifies the ethical principles of utilitarianism and non-consequentialism (Bromley, 2004) for future research. The MSHSL (2012) rule change should be investigated with a utilitarianistic lens, as based on efficiency, stiffer penalty times might not obtain a maximum benefit for the safety of all players. With the goal of player safety in mind, the MSHSL (2012) policy revision should be scrutinized to see if the result adheres to Beauchamp, Bowie, and Arnold’s (2008) guideline of producing the greatest balance of benefits over harms for the greatest number. Finally, the MSHSL (2012) mid-season rule change should be studied with a non-consequentialistic (Bromley, 2004) ethical lens. This ethical principle values all individuals and their right to choose. Non-consequentialism in the MSHSL (2012) context, would allow each player, coach, official, and parent the right to choose the playing rules. In other words, a public vote would be considered ethical under this lens as it allows each individual a voice and the freedom to choose. While not all situations can be resolved based on Beauchamp et al.’s (2008) means end reasoning, the current MSHSL (2012) context certainly warrants further research as well as a follow-up analysis during the 2016 NFHS traditional 4-year rule change cycle.