

OTHER OPINION

Bobby Knight: Super Coach Or Aggrieved Employee?

By Neil Groberg

If you have lived in Indiana, as I once did, you would know that out there, basketball is King and Bobby Knight is the Prince. Like infant royalty, the longtime basketball coach of Indiana University has the temperament of a 3-year-old, but stays revered and untouchable.

Until now. After a special Board of Trustees investigation, Knight recently was suspended for three games next season and fined \$30,000 for a pattern of inappropriate behavior. The most recent allegations included a report that he had choked one of his players and had brandished soiled toilet paper in front of the team. A unique guy, no?

Not really. As an employment attorney for more than 20 years, I've seen plenty of people with the Bobby Knight syndrome: Fantastically (and fanatically) talented leaders who get results by methods some would call out-and-out abuse. Considering him in that light, how would I counsel IU if they asked me about the employment law aspects of the Knight case?

Here are some of the questions I would raise with them:

- Would firing Knight be discriminatory? He is over 40, so age is a factor. True, his advanced age doesn't seem to have prevented him from choking employees and throwing chairs. But a charge of age-related discrimination must be considered especially if, after firing Knight, the school happened to hire a 25-year-old chairthrower.
- Does Knight have a contract? What does it say about performance and behavior? Does the university have to warn the coach before it terminates him? Firing someone without following the requirements of the contract could cost the university a lot more than bad headlines.
- If the coach doesn't have a contract, does the university have an employment policy and handbook? Has the school followed it in disciplining Knight?

- What has the employer done before in terms of discipline? If nothing, why can't the coach assume there is nothing wrong with attacking players to motivate them, so that he can achieve his ultimate job objective, namely winning?
- The reported temper tantrums suggest serious psychological issues. Does the Americans for Disabilities Act protect the coach? Could the school require Knight to attend an anger management course in order to stay employed?

Two fundamental employment relations concepts apply to Bobby Knight's situation. The first is "one last clear chance"; it gives an employee, in unambiguous terms, one final shot at cleaning up his or her act. The other, known as "a cardinal sin," is applied when an act or acts of an employee are so awful that immediate firing is in order.

From accounts in the press, it appears that both these concepts were considered at IU, and that the trustees chose to provide one last clear chance. Given the many complexities of the situation, including the school's failure to discipline over the years, the decision about what to do must have been legitimately difficult. Despite the cries of outrage in the press – *Sports Illustrated* called it a "whitewash" – there were no easy or obvious answers.

This type of question arises frequently in the workplace, even if it involves a manager in a cubicle, not the Prince of Basketball in his court. On the surface, it may appear that the school wimped out. Legally speaking, they may have had little choice about which sanctions to impose.

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