

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

September 15, 2020

VIA FIRST CLASS MAIL AND EMAIL

Austin Bradshaw
New England Flag Football League
100 Cummings Center, 224-G
Beverly, MA 01915

Dear Mr. Bradshaw:

The New Hampshire Attorney General (“AGO”), on behalf of the New Hampshire Department of Health and Human Services, Division of Public Health, is enforcing the Governor’s Emergency Order 50, as extended by Emergency Orders 61 and 67, and issued pursuant to Section 18 of Executive Order 2020-04, as currently extended by Executive Order 2020-17, and all of its guidance documents. Specifically, New England Flag Football League (“NEFFL”) was required to comply with the Amateur and Youth Sports Guidance with respect to the flag football tournament, known as the “Summer Showdown” (the “tournament”), operated at the Seacoast United Sports Complex, in Epping, New Hampshire, on August 21-23, 2020. NEFFL, as the organizer of the tournament, was informed multiple times by both state and local officials prior to the event that only New England teams were allowed to compete at the tournament. However, teams from outside of New England, including Pennsylvania, Ohio, and Wisconsin, competed in the tournament.

FACTS

On or about August 19, 2020, Brigit Feeney, from the AGO, contacted you via telephone and spoke with you regarding information that the AGO had received about non-New England teams being registered for the tournament. Ms. Feeney informed you that no teams from outside of New England were able to participate in the tournament pursuant to the Amateur and Youth Sports Guidance and the Universal Guidelines. Ms. Feeney explained that the waivers included in the Amateur and Youth Sports Guidance only applied to players on New England-based teams who were from non-New England states (*i.e.*, a player from New York who was rostered and played for a Connecticut-based team). You were also informed that Emergency Order 63 required that for events of more than 100 people, wearing face coverings was required. Ms.

Feeney confirmed this telephone call and the information provided in an email on August 20, 2020.

On August 20, 2020, you confirmed, via email, that you had redone the schedule without the non-New England teams and that one team was upset and would be calling the Governor's Office. Ms. Feeney confirmed that she had heard from a New York team. She also raised a concern that the New York team informed her that a team from Ohio would be flying into the tournament to play. She asked you if this information was correct. On August 21, 2020, Ms. Feeney emailed you again as she had not received a response to her question about the Ohio team. She reminded you that having a non-New England Team participate or allowing a team to fly into the tournament was not allowed under the Guidance. You confirmed on August 21, 2020, that you had received the email and spoken with the "state police" that evening. You confirmed that you had all of the signed paperwork and waivers that you needed. Again, on August 22, 2020, Ms. Feeney confirmed with you that NEFFL was only allowed to have New England teams at its tournament. You confirmed receipt of this email on August 22, 2020, with a "No problem." Copies of those emails are attached to this letter.

The AGO also spoke with the Epping Police Department which confirmed that it had been in contact with you, not State Police. Police Chief Michael Wallace spoke with the Seacoast United Sports Complex, during the week of August 17, 2020, confirming that only New England teams were allowed to compete. Sergeant Alex McCann also spoke directly with you confirming that only New England teams were allowed to compete.

The AGO requested documents from NEFFL during the weeks of August 31, and September 7, 2020, showing where the teams came from, how they traveled to New Hampshire, and copies of the documents the teams and athletes provided with respect to any waivers. While NEFFL provided some of the documents the AGO requested, it missed deadlines for requested information and did not provide information regarding how all of the teams traveled, some of the home states of the teams, or the official waiver form. Instead, NEFFL provided an email, dated September 11, 2020, in which you pasted the "Assumption of Risk/Waiver of Liability/Indemnification Agreement" language that was allegedly provide to athletes and teams to execute. The final two sentences of this document state:

In addition per the Governors (sic) office of New Hampshire and the return to play protocols any player travelling into the state of NH has to certify that he or she has quarantined in his or her home state for 14 days prior to arriving in NH. We understand that any player that that has not quarantined will not be permitted to participate in the tournament.

This language does not include any information about non-New England teams not being allowed to participate or what the definition of "quarantine" included in the Amateur and Youth Sports Guidance is.

On September 9, 2020, you confirmed, in an email to Ms. Feeney, that the Legacy All Stars Team is from Wisconsin, the Youngstown Penguins team is from Ohio, and the

WeDifferent Teams are from Pennsylvania, and you provided their COVID waivers to the AGO. Copies of those emails are attached to this letter.

FINDING

The following are the non-New England teams that have been confirmed as being present at the tournament:

WeDifferent 6U (9 Players) - Pennsylvania
YYFFA Penguins 6U (8 Players) – Ohio
Fairway Raiders 8U (8 Players) - Ohio
WeDifferent 8U (9 Players) - Pennsylvania
YYFFA Penguins 8U (8 Players) - Ohio
Legacy All Stars 10U (9 Players) - Wisconsin
YYFFA Penguins 10U (9 Players) - Ohio
Legacy All Star 12U (8 Players) - Wisconsin

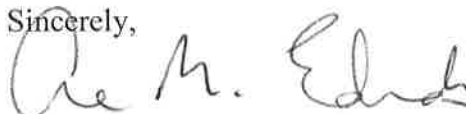
Allowing these teams to compete was a violation of the Governor's Emergency Order 52, as extended. Given the multiple warnings prior to the event, the actions of NEFFL were reckless and intentional based on the information that was provided to NEFFL and you specifically, and your confirmation that you understood that non-New England teams were not allowed to compete.

In accordance with Emergency Order 65, NEFFL is found to have recklessly violated Emergency Order 52, as extended, and specifically the Amateur and Youth Guidance. In accordance with Paragraph 5 of Emergency Order 65, NEFFL is subject to a civil penalty of up to \$1,000 per violation. In accordance with RSA 21-P:47, NEFFL is subject to a misdemeanor.

Each team from outside of New England is a separate violation of Emergency Order 52. Given that we have confirmed that there were at least 8 teams from outside of New England, the maximum total civil penalty that could be assessed is \$8,000.00 for that set of violations. Based on all of the relevant facts and circumstances, **a civil penalty of \$2,000.00 (\$250.00 per violation) is assessed in accordance with Emergency Order 65, Paragraph 4.**

Payment of the civil penalty is required by September 29, 2020. If NEFFL wants to challenge this civil penalty, it can raise that issue with the AGO, under Paragraph 4 of Emergency Order 65, and negotiate a settlement or request a hearing.

Sincerely,



Anne M. Edwards,
Associate Attorney General

Edwards, Anne

From: Edwards, Anne
Sent: Tuesday, September 15, 2020 1:36 PM
To: Edwards, Anne
Subject: RE: Flag Football DRAFT letter and information

From: "Hotmail" <austin_bradshaw@hotmail.com>
Subject: Re: Emergency Order information for NH
Date: 22 August 2020 09:01
To: "Feeney, Brigit" <Brigit.Feeney@doj.nh.gov>

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Good morning Brigit
No problem and thank you for your time beautiful out right now fingers crossed.
Thanks again
Austin

Sent from my iPhone

On Aug 22, 2020, at 7:36 AM, Feeney, Brigit <Brigit.Feeney@doj.nh.gov> wrote:

Thank you for following up. I appreciate your willingness to work with us and keep this tournament to New England (NH, ME, RI, CT, VT, MA) based teams only. Good luck this weekend, I will keep my fingers crossed that the thunderstorms hold off for you all.

Thank you,
Brigit Feeney

From: Hotmail <austin_bradshaw@hotmail.com>
Sent: Friday, August 21, 2020 8:50:12 PM
To: Feeney, Brigit
Subject: Re: Emergency Order information for NH

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Hi Brigit
Sorry was busy getting ready for the tournament yes I got the email and I spoke to the state police tonight also. We have all the necessary signed paperwork, along with waivers, rosters and everything we need at the tournament to meet the governors guidelines which we will be happy to submit if needed.
Thank you
Austin

Sent from my iPhone

On Aug 21, 2020, at 8:43 PM, Feeney, Brigit <Brigit.Feeney@doj.nh.gov> wrote:

Good evening Austin,

I just wanted to check in to make sure you received my last email in regards to the teams from outside of New England. We had been informed of teams from Ohio and Pennsylvania that were potentially attending the tournament.

As you know from our conversations, the tournament is only open to New England based teams while the Governor's Emergency Order is in effect. Also, this is reiterated in the guidance set forth in the Universal Guidelines and the Amateur and Youth Sports Guidance, which directly applies to your organization.

Below again for your reference is the guidelines and requirements related to your organization;

<https://www.covidguidance.nh.gov/sites/g/files/ehbemt381/files/files/inline-documents/guidance-universal.pdf>

The Amateur and Youth Sports guidelines also provides language about no teams outside of New England as referenced below. Attached is also a link for more complete guidance as I am highlighting the pertinent parts of concern:

<https://www.covidguidance.nh.gov/sites/g/files/ehbemt381/files/inline-documents/2020-05/guidance-amateur-youth-sports.pdf>

1. No teams/groups/athletes other than from New England are allowed at competitive sporting events, training sessions, or practices in New Hampshire except under the following conditions:
 - If each athlete or member of a team/group arriving in New Hampshire for a competitive sporting event, training session, or practice, certifies in writing that he or she has “quarantined” in his or her home state for the 14 days prior to arriving in New Hampshire, then that athlete, team, or group may participate in the competitive sporting event, training session, or practice.
 - Under this paragraph, “quarantine” means that the individual executing the certification swears that he or she remained at a home for at least 14 days before arriving in New Hampshire, only going out for essential items or work, and when outside of the home maintained physical distancing of 6 feet from other people and wore a cloth face covering/face mask when within less than 6 feet of another person during this 14 day “quarantine” period.
 - The written certifications must be delivered to the individual coordinating the New Hampshire competitive sporting event, training session, or practice, and must be maintained for a period of at least 21 days after the completing of the sporting event, training session, or practice.
 - No athlete or member of a team/group shall be allowed to participate in a competitive sporting event, training session, or practice in New Hampshire if he or she has traveled in the 14 day period prior to arriving in New Hampshire by public transportation, including, but not limited to, airplane, train, bus, or

subway, or has been on a cruise ship, or has traveled from another country despite the means of transportation.

The exceptions noted above are NOT for teams outside of New England who quarantine and instead only applies to individuals who are already rostered players on New England based teams.

Additionally for your information, attached is also Emergency Order 65 which outlines the civil penalties for non compliance with the Governor's Emergency Order.

<https://www.governor.nh.gov/sites/g/files/ehbemt336/files/documents/emergency-order-65.pdf>

Thank you for your compliance and understanding in this matter. Please feel free to reach out with any questions or concerns. I hope you have a healthy and safe tournament this weekend.

Take care,

Brigit Feeney
NH Attorney General's Office

From: Feeney, Brigit
Sent: Thursday, August 20, 2020 4:57 PM
To: Hotmail
Subject: Re: Emergency Order information for NH

Good afternoon Austin,

Thank you for the heads up. No need to apologize as this is all understandable during this difficult time. I spoke with a group from NY this afternoon to reiterate that they are not able to play in the tournament. They also mentioned that they knew of a team from Ohio who was flying in to play, are you aware of this?

Thank you for working to adhere to our guidelines and requirements. I appreciate you communicating the difficult information with the groups that are unable to attend. Please feel free to provide them my contact information if they would like to reach out directly.

Thank you,
Brigit Feeney
NH Attorney General's Office

From: Hotmail <austin_bradshaw@hotmail.com>
Sent: Thursday, August 20, 2020 9:55:18 AM
To: Feeney, Brigit
Subject: Re: Emergency Order information for NH

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Hi Brigit

Thank you for this information, we have redone the schedule without those teams and all set. There was one group however that are very upset and not letting this go, they said they are calling the governors office. I just want to give you a heads up who would think this much aggravation over a game of flag football ☹️ Sorry if this has caused any additional headaches on top of I'm sure what you already have.

Thank you again for working with us.
Austin Bradshaw

Sent from my iPhone

On Aug 20, 2020, at 8:30 AM, Feeney, Brigit
<Brigit.Feeney@doj.nh.gov> wrote:

Good morning.

Thank you for speaking to me yesterday about the concerns related to players outside of New England and the mask requirement for events of over 100 people. Below are the documents I referenced in our conversation for your records and to pass along to others involved in the tournament.

According to the Universal Guidelines, anyone coming from outside of New England, to include teams from NY and NJ cannot come to NH to play in this or any other tournament.

Also, under the Amateur and Youth Sports guidelines, there is language about no teams outside of New England as referenced below. Attached is also a link for more complete guidance as I am only highlighting the pertinent parts of our conversation.

<https://www.covidguidance.nh.gov/sites/g/files/ehbemt381/files/inline-documents/2020-05/guidance-amateur-youth-sports.pdf>

No teams/groups/athletes other than from New England are allowed at competitive sporting events, training sessions, or practices in New Hampshire except under the following conditions:

- If each athlete or member of a team/group arriving in New Hampshire for a competitive sporting event, training session, or practice, certifies in writing that he or she has "quarantined" in his or her home state for the 14 days prior to arriving in New Hampshire, then that athlete, team, or group may participate in the competitive sporting event, training session, or practice.
- Under this paragraph, "quarantine" means that the individual executing the certification swears that he or she remained at a home for at least 14 days before arriving in New Hampshire, only going out for essential items or work, and when outside of the home maintained physical distancing of 6 feet from other people and wore a cloth face covering/face mask when within less than 6 feet of another person during this 14 day "quarantine" period.
- The written certifications must be delivered to the individual coordinating the New Hampshire competitive sporting event, training session, or practice, and must be maintained for a period of at least 21 days after the completing of the sporting event, training session, or practice.

- No athlete or member of a team/group shall be allowed to participate in a competitive sporting event, training session, or practice in New Hampshire if he or she has traveled in the 14 day period prior to arriving in New Hampshire by public transportation, including, but not limited to, airplane, train, bus, or subway, or has been on a cruise ship, or has traveled from another country despite the means of transportation.

The exceptions noted below are NOT for teams outside of New England who quarantine and instead only applies to individuals who are already rostered players on New England based teams.

Also, as discussed, Emergency Order 63 requires masks to be worn for events over 100 people. The individuals on the field playing would not be required to comply but other individuals not playing on the field would be required to comply with this emergency order. Below is the Emergency Order 63 language:

<https://www.governor.nh.gov/sites/g/files/ehbemt336/files/documents/emergency-order-63.pdf>

Additionally for your information, attached is also Emergency Order 65 which outlines the civil penalties for non compliance with the Governor's Emergency Order.

<https://www.governor.nh.gov/sites/g/files/ehbemt336/files/documents/emergency-order-65.pdf>

Please feel free to reach out with any questions or concerns as you communicate with the teams from New York and New Jersey and work to inform attendees of the updated guidance.

Thank you,
Brigit Feeney
NH Attorney General's Office