

THE PREVALENCE OF LEGAL ISSUES IN DIVISION I COLLEGE ATHLETICS AND HOW DEPARTMENTS
MANAGE THESE ISSUES

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ABSTRACT

CATHERINE E. MITCHELL: The Prevalence of Legal Issues in Division I College Athletics
and How Departments Manage These Issues
(Under the direction of Barbara Osborne, Esq.)

Division I athletics departments often face legal matters and must manage these issues. This study conducted a survey of two populations, Division I athletics directors and general counsels, soliciting responses about how frequent athletics departments encounter various legal issues and the structure utilized to manage those issues. The survey also asked respondents to provide information on the positives and negatives of various management models.

Previous research in this area focused on the presence of Juris Doctor degrees in athletics and looked at the advantages of hiring those with law degrees. An older study investigated the sources of legal counsel for departments, but was performed before the exponential growth in college athletics. This study furthered findings from previous studies, but specifically showed that university counsel is the most common legal resource for athletics departments. Furthermore, results indicated that athletics encounter a full list of legal issues with NCAA matters and contracts being more common.

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Chapter 1

INTRODUCTION

There is no question that sports are a prevalent part of society. From the ever-increasing ticket prices and team apparel sales to the boom of fantasy leagues and increasing number of networks covering sports, the importance of sports to our society appears obvious. The importance of sports holds true at all levels, professional, intercollegiate, interscholastic, and even recreational sports. Not only have sports themselves become a ubiquitous part of our society but the issues encountered in sports have infiltrated our conversation and debates as well. At all levels of sports, those involved as a participant, coach, administrator, employee, or even fan are deeply invested; therefore when problems arise they potentially affect many constituents. Even those unaffected by the situations have an interest in the outcome as sports are such a prevalent part of our society.

Intercollegiate athletics in particular create an atmosphere for many invested constituents: student athletes who are building their future, coaches and administrators who chose careers in the industry, alumni who have spent time at the university, donors who have given money, and the community who has invested support. This expansive number of constituents not only shows the interest in intercollegiate athletics but also creates an atmosphere for many potential legal issues that can affect many individuals. While the National Collegiate Athletic Association (NCAA) tries to maintain an atmosphere of amateurism, intercollegiate athletics often takes on the appearance of a big-time business and has a broad impact in our society. Just as professional sports organizations, large corporations, and universities themselves must monitor and manage

legal issues, college athletics departments are no different. In addition to managing the wide range of legal issues, intercollegiate athletics also have several other factors to consider such as the number of NCAA rules with which they must comply, the strong fan bases involved in intercollegiate athletics, and constant public scrutiny of these programs.

A quick skim of a newspaper or a few minutes tuned in to ESPN supports this notion. Over the last few years, there has been constant publicity about an antitrust case brought by former student-athletes against the NCAA, a case that has the potential to significantly impact college sports. (*In Re: NCAA Student-Athlete Likeness Litigation*, 2010). One also might see a story related to concussions because of the many individuals bringing suit against the NCAA over head trauma suffered as a college athlete (Harris, 2013). Another headline may focus on the newest television contract for a conference and the large amount of money that schools will make from the contract (Dosh, 2013). All of these stories can trigger heated debates and have a significant effect not only on those involved in the particular situation, but on the athletics departments, colleges or universities, and the college sport world as a whole.

The vast array of legal issues that can arise in any business intersect with college athletics as well. While certainly not an exhaustive list, these issues range from liability for student athlete welfare, coaches' contracts, and antitrust suits against the NCAA, to gender equity, NCAA rules compliance, negligence or other torts and athlete conduct issues. This study will examine the various legal issues faced by college athletic departments in order to determine which of these are the most prevalent in NCAA Division I athletics programs, and how these departments are addressing these issues.

A college athletics department has several options in the way it approaches these legal issues and to whom it turns to for legal services. One option may be to simply utilize the legal

expertise of a member of the department of athletics administration who has a law degree. Another option is to hire an attorney to manage the legal issues within the department of athletics. This approach allows the departments to manage the issues internally, but requires additional funds and could present some conflicts with the institutional administration as the interest of athletics and university counsel may differ. Another approach is to rely on the university counsel to handle the legal issues that arise. Rather than dealing with anything directly inside the athletic department, the attorneys managing the legal issues of the university handle those in athletics just the same. Within university counsel, the office structures may vary in their management of issues and departments as well. A fourth option is to hire outside counsel to handle their legal issues. Departments can incur large bills when utilizing outside counsel and must open itself to those outside the department. Of course there are many varieties of each of these approaches within college athletics and many departments use a combination of these depending on the legal issue at hand. This study will examine the approaches Division I athletic departments choose to manage these legal issues and attempt to determine not only the most commonly used option but also the most efficient and effective model.

Statement of Purpose

The purpose of this study has three prongs. First, the study looks to determine which legal issues arise most often in college athletics. Second, it will examine the ways in which departments of athletics across Division I manage these issues on a practical front: through an attorney on the athletics staff, university counsel, or by hiring outside counsel. Third, it will present the opinions of professionals in the industry in regards to the management of legal affairs and weigh the positives and negatives of the various structures.

Research Questions

- R1. What are the legal issues faced by Division I college athletics departments?
- R2. Which of these legal issues occurs most often in Division I college athletics departments?
- R3. When legal issues arise in a Division I college athletics departments, how does the department manage the issue—within the department, through University Counsel, using outside counsel, or a combination?
- R4. What are the advantages and disadvantages of each structure model?

Definition of Terms

NCAA (National Collegiate Athletic Association): A national governing body for college athletics, of which membership is voluntary.

NACUA (National Association of College and University Attorneys): an association comprised of attorneys who represent colleges and universities with the purpose of educating and updating those attorneys on the legal issues faced on campus.

Division I: the highest level of competition within the National Collegiate Athletic Association structure

In-house counsel/attorney: Attorney housed within athletics

University counsel: General counsel for the university, employees of the university—the lawyers that handle all university legal matters

Outside counsel: Lawyer that is not affiliated with the institution who is hired to handle particular matters (although some schools hire outside counsel to handle all legal matters)

Limitations

1. This study is limited by the researcher's ability to identify and contact the correct staff at the universities.
2. This study is limited by the cooperation and willingness of athletics directors, university counsel, or other appropriate participants to provide accurate answers.
3. This study is limited by the sensitivity and duty of confidentiality that may come into play in regards to certain legal issues.

Delimitations

The scope of this study is limited to only Division I institutions within the NCAA.

Assumptions

1. The researcher assumes that the athletic director will answer him/herself or forward the survey to the individual in the best position to answer the questions.
2. The researcher assumes that the university counsel will be able to answer the survey related to athletics.
3. The researcher assumes all respondents will answer truthfully and accurately.
4. The researcher assumes that the questions are clear and those responding understand what the question is asking.

Significance of the Study

College athletics have become a wide-ranging enterprise that must deal with many issues and there is no shortage of issues that have legal implications. While the existence of legal issues is obvious, which issues departments most often deal with is not so obvious, nor is the strategy for managing these issues. Although researchers performed a similar study in 1993, the landscape of college athletics has changed significantly in the last 20 years, particularly in

NCAA Division I (Lea & Loughman, 1993). With the many constituents affected by college athletics and the abundance of legal issues that can arise, it is important for administrators to understand what their departments may face. It is also critical that departments have a structure for managing these issues and choose the best approach for their department whether that is based on effectiveness, efficiency, or other factors. This study will help reveal which issues occur most often so administrators can proactively address these. Administrators will also be able to see how other departments manage the issues and compare strategies to mold their structure into the best practice for their department.

Chapter 2

LITERATURE REVIEW

Open up any publication on college athletics or any sport news website like ESPN or Yahoo! Sports and there is a good chance you will read more than just a recap of the recent college game and instead read multiple stories that address some ongoing legal issue. In simply browsing the table of contents of a textbook entitled *Managing Legal Issues in College Athletics* (O'Brien & O'Brien, 2004) one would find that the issues range from torts and the standard of care for facilities to contracts, employment law issues, and gender equity. Sport battles no longer stay on the field or the court, but the battles now continue into the courtroom and the office of lawyers. As stated by one court, "organized athletic competition doesn't exist in a vacuum." (*Nabozny v. Barnhill*, 1975, p. 215) Thus it is no secret that the legal field and sports field have collided and legal matters can infiltrate every aspect of the sports world. In *Managing Legal Issues in College Athletics* (O'Brien & O'Brien, 2004, p. ix), the authors suggest that college athletic administrators should keep four things in mind in their role—1) law changes often, 2) the number of lawsuits and threats of litigation will only increase over time so they should use the law in their favor, 3) administrators should apply and implement legal implications and advice into their decisions, and 4) it is America and we all have legal rights. The breadth and depth of the effects of the law on intercollegiate athletics is continuously changing and growing. This can be seen in the news stories and should be reflected in department agendas as they take note of the issues and implement strategies to handle those issues

Legal Issues in College Athletics

One of the issues often covered is the threat of tort cases against college departments of athletics. This threat permeates all of society, but the sports world in particular seems to have experienced an extensive growth in this area (O'Brien & O'Brien, 2004). Whether it be conduct on the field between athletes or the condition of the entrance to a facility, athletic departments must be aware of potential liabilities and properly manage these to avoid being liable. Risk management has become a prevalent area in the sports world as a whole and this certainly is true for college athletics. Managing the risks of a department requires a great deal of attention, but can shield the department from a number of potential lawsuits, costs, and the poor perception of a mismanaged department (Appenzeller, 1998).

In further regards for student-athlete specific concerns, the continuing concern and developments over concussions are also at the forefront of college athletics. Departments of athletics must consider adopting concussion policies and recognize the threat of liability that comes from student-athletes suffering these potentially catastrophic injuries (Reilly, 2012). Over the last few years several lawsuits have been brought by former student-athletes against professional leagues, athletic departments, and particularly the NCAA for permanent brain damage these athletes suffered allegedly due to concussions that resulted from playing their sport (Axon, 2013). Another case in the headlines recently involved a Texas Tech football coach locking his player in a dark storage building after the player missed practice due to a concussion (Hackney, July 2013). It is vitally important that departments of athletics manage the risks associated with concussions and treat them from a health care perspective, but these injuries also present a legal matter the departments must manage as well.

Antitrust claims against the NCAA have been unsuccessfully raised many times over the last 50 years, but recently this claim seems reinvigorated as a result of the case involving Ed O'Bannon and other former student-athletes (*In re Student-Athlete Likeness Litigation*, 2010). The outcome of this case could significantly reframe college athletics. While the details of this case are outside the scope of this study, it is an example of how impactful the law can be in intercollegiate athletics. This case hinges on antitrust and the rights of publicity for student-athletes (*In re Student-Athlete Likeness Litigation*, 2010). If the court finds in favor of the plaintiffs, student-athletes would be able to receive payment for the use of their likeness in products like video games, which could cause sweeping changes across departments of athletics. A ruling against the NCAA could cost departments of athletics millions of dollars and further divide the 'haves' and the 'have-nots' (Levick, 2013). For this reason it is important for departments to monitor and understand the antitrust issues facing the NCAA and more importantly the potential impact on their departmental budgets. With such complex legal issues and procedural methods involved in this case, an individual with a legal background is best equipped to analyze and understand the potential impacts as the case evolves.

Other developments in college athletics introduce further legal issues. For example, the myriad of contract claims that may arise due to the increasing size of coaches' salaries and intricacies of their contracts, the large licensing agreements, the media contracts that are growing exponentially and other contract areas. Department administrators and attorneys need to pay careful attention to the drafting and negotiation of contracts and other agreements. These increasingly complicated contracts also introduce more terms and elements to litigate over if disputes arise. A guide on the office of general counsel and athletics produced by NACUA points out that every school may have its own unique contract format (Varady, 2013). Varady

(2013) also emphasizes that despite athletics contracts containing similar clauses and elements to all other contracts the university enters, these hold much greater interest for the public. The NACUA guide also suggests that there are certain elements and provisions that general counsel should be particularly aware of and carefully review. The compensation package in a coach's contract is of course important, but also important is the length of the contract including termination options and the NCAA implications (Varady, 2013).

Another area of the law that can have an important impact on college athletics arises out of federal legislation requiring gender equity and nondiscrimination on the basis of sex. Title IX of the Education Amendments of 1972 is particularly influential in college athletics. Departments must consider this issue in many of its decisions and ensure compliance with the requirements. During the period from 2009-2011, the Office of Civil Rights in the U.S. Department of Education handled over 900 Title IX complaints that were rooted in athletics, 17 of which resulted in the office conducting an investigation (Office for Civil Rights, 2012). With the number of complaints coming through the Office of Civil Rights it seems clear that this is something departments must be mindful of, but given the low rate of investigation it may be an area of low risk. In the same arena as Title IX would be Title VII and the Equal Pay Act as federal legislation prohibiting discrimination in employment. In the context of college athletics, gender discrepancies in coaching staffs can present issues and pay differentials can lead to further legal concerns for departments. A 2012 publication from Winthrop Intelligence provides an overview of the factors athletic directors should be aware of relating to Title VII and Title IX (Harper, 2012). Complaints based on any of these federal laws or associated regulations can command significant administrative and financial resources. Departments need to monitor their

hiring practices and the pay structure for employees to ensure they comply with the federal requirements of these laws.

There is certainly no shortage of legal issues that arise in college athletics and the operation of these departments in regards to these issues is critical. Intercollegiate athletics continue to expand and have reached a point where it is now a big business. In 2010, an article in the *Journal of College and University Law* pointed out that the nature of being a big business means that there is “big regulation and even bigger legal problems” (Lee, 2010, p. 682).

Division I college athletics programs regularly face issues similar to those of large corporations and even beyond. Not only do they face compliance issues, big contracts, and risk management but departments of athletics must also consider the implications of financial aid cancellation, conference realignment, and the numerous legal matters associated with the NCAA—antitrust law, federal constitutional law, state law due process protection and federal discrimination law (Lee, 2010). Whoever handles these issues cannot simply be a fan on the sidelines cheering on the team, but must be thoroughly involved in the matters and able to do so with limited resources as Lee (2010) points out in her article.

NCAA Issues

Regardless of state or federal issues that may face an athletic department it cannot be dismissed that college athletics voluntarily operate under another governance structure imposed by the NCAA. The NCAA has its own set of complex rules and requirements applicable to departments of athletics. In Division I, the Board of Directors hold the final authority and are supported by the Leadership Council and Legislative Council, which review policy and oversee the legislative agenda (Potuto, 2009). As a private voluntary association, the NCAA is free to

choose the way it governs and the rules it implements. The members agree to operate under these rules, in other words, this is a contract between more than 1,000 members (Potuto, 2009).

Jo Potuto (2009), a professor of Constitutional law and sport law at the University of Nebraska, equates the breadth of the NCAA bylaws to a legal system “where shared normative and cultural understandings cover a wide range of subject areas with multi-varied and complex interrelationships” (p. 268). In other words, the rules and enforcement structure acts as a quasi-legal system over the members and thus requires specialized knowledge and ability to navigate this system. The bylaws, under which members operate, parallel statutes in the legal system (Potuto, 2009). These bylaws regulate the actions and decisions of member institutions, governing what athletic departments, staff members, student athletes, and boosters must, may, and may not do (Potuto, 2009). The Committee on Infractions serves almost as an administrative court, which decides cases and hands down punishments to institutions that have violated rules (Potuto, 2009).

Due to the extensive number of bylaws to abide by and a structure of institutional control and accountability, a great deal is demanded of institutions and the compliance staff of the athletics department. Much of the job lends itself to interpretation of the rules and applying those to individual situations that arise in the department. Megan Fuller (2009), a legal scholar and graduate of New York Law school, has hypothesized that athletics administrators who are interpreting NCAA bylaws and advising the student-athletes and staff how to abide by these rules is essentially advising clients and thus practicing law. States have enacted statutes that prohibit the unauthorized practice of law in order to preserve the profession as attorneys undergo extensive education, must abide by a strict ethics code, and are required to seek admission to the bar association (Fuller, 2009). Fuller (2009) analyzes New York law specifically and claims that

athletic compliance directors at the New York schools are violating New York's Judiciary Law by negotiating deals, drafting contracts and regulations and interpreting agreements without a law license (Fuller, 2009). While there does not appear to be any cases that bring up this issue, Fuller (2009) points out that this behavior is considered unauthorized practice of law in other areas where non-lawyers are providing guidance on the benefits and disadvantages of contracts and the consequences of certain actions. The eligibility and future of student-athletes relies on this advice and interpretation with no due process for the student-athletes and no standards for compliance directors to comply with in their role. While their job is at risk in maintaining a compliant department, there is no set ethical code they must hold themselves to as attorneys have, thus furthering the argument against this unauthorized practice of law (Fuller, 2009). While this argument may not carry much legal weight, as the NCAA is a private association and compliance officers are not operating under the laws, Fuller (2009) does bring light to a sensitive area. These issues are complex and closely resemble legal issues making the argument a valid one to consider.

Compliance departments as a whole though are not completely without legal training. A 2008 study noted that an estimated 162 athletic administrators have a Juris Doctor (J.D.) degree (Tharrington). While these individuals may not all be licensed attorneys, they have the background and benefit of a legal education. The training would provide them with the analytical skills necessary to interpret and advise as an attorney. Hiring individuals with a J.D. exemplifies departments' understanding of the need to properly identify and assess compliance issues and the various legal matters inherent in athletics (Tharrington, 2008).

Opportunities for Sport Law Specialization

With all these issues it seems clear that there is a need for legal counsel in college athletics—response to the need appears to be occurring on the front side of the industry. There are many opportunities in postgraduate education to explore the combination of sport and law. Marquette University School of Law offers a track within the law program to obtain a Sport Law certification from the National Sports Law Institute (Marquette University School of Law, 2013). The education provided by Marquette Law School in sport law is one of the most comprehensive in the nation and prepares students for employment in the sport industry, in both professional and amateur sports (Marquette University School of Law, 2013). The National Sports Law Institute, which researches and educates on the legal issues involved in amateur and professional sports, is housed at Marquette Law School (National Sports Law Institute, 2013). The Institute hosts national conferences where some of the leading researchers and practitioners in the nation discuss sports law issues and disseminate potential problems and solutions. It also publishes one of the nation's leading publications on legal issues in sports, the *Marquette Sports Law Review* (Marquette Sports Law Review, 2013).

The law school at Tulane University also offers a specific sport law program (Tulane School of Law, 2013). At Tulane, the sports law program seeks to provide students with an academic and practical education in the unique area of sport (Tulane School of Law, 2013). Beyond these specific programs, a large number of law schools offer a course in sport law, which covers the broad spectrum of legal issues in sport from recreational and interscholastic to intercollegiate and professional. A 2011 study revealed that 87% of law schools surveyed offered at least one sports law course (Marquette Executive Summary, 2011). There are some programs that focus on college athletics such as the dual degree program at the University of

North Carolina at Chapel Hill, which offers a law degree and a Masters in Sport Administration (UNC Exercise and Sport Science, 2013). The sport administration program at UNC focuses on college athletics (UNC Exercise and Sport Science, 2013). Other sport administration programs as well as business administration programs provide opportunities to take sport law courses and pursue specializations in sport law matters. Drexel University will begin a new program in January 2014 that offers a Master's degree in Legal Studies with a focus in regulatory compliance (Drexel University School of Law, 2013). This program is offered through the law school and will allow students to specialize in NCAA compliance and sports law (Drexel University School of Law, 2013). It is through these program and course offerings that it becomes evident that the industry has presented a need for people to be educated and familiarized on these issues. College and universities have recognized the need and now provide the opportunity to receive the necessary education.

Legal Staff Presence in Athletics Departments

In her 2008 study, Anna Tharrington looked at the prevalence of college athletics administrators and staff who held Juris Doctor degrees (Tharrington, 2008). Her study indicated that there were 97 athletics administrators who held a J.D. in the departments of the respondents (Tharrington, 2008). This translated into an estimated 162 administrators with a J.D. working at 362 Division I departments or conference offices (Tharrington, 2008). As part of the study, respondents with a J.D. were asked which issues they most commonly advised on from a legal standpoint (Tharrington, 2008). The most common responses were NCAA and/or conference rules and compliance, risk management/liability concerns, gender equity issues, contract drafting, racial equity, and contract negotiation (Tharrington, 2008). Interestingly enough, most respondents indicated that they rarely interacted with the general counsel at their school

(Tharrington, 2008). When athletic directors were asked to whom they refer legal matters 72% said they refer legal matters to general counsel, 34.8% sought outside counsel, and 21.2% indicated that they refer it to an individual within the department with a J.D. (Tharrington, 2008).

A similar study was conducted in 1993 and addressed the growing size and scope of departments of athletics and the need for legal counsel (Lea & Loughman, 1993). Twenty years later, departments of athletics are even larger and the legal issues even more prominent. Even in 1993, the ways college athletics departments chose to deal with legal issues failed to keep up with the growing prominence of the issues in front of them. The 1993 study chose a combination of survey research and in-depth interviews to measure: the source of legal services; the cost of those services; the subject area of those services; education with respect to legal issues; growth of athletic department staff, facilities, and services; changes in athletic department budget and revenue; and growth of the university as a whole (Lea & Loughman, 1993). Institutions in all three NCAA divisions were included (Lea & Loughman, 1993). The study found that the majority (59.43%) of respondents turned to a single source for their legal needs, however in Division IA the departments utilized more than one source significantly more often than other divisions (Lea & Loughman, 1993, p.16). Over half of the respondents, 57.88%, looked to the university in general whether that was the general counsel or outside counsel hired by the university (Lea & Loughman, 1993, p. 16). The researchers also studied the amount these athletic departments were spending on these legal issues and determined that the overall spending for departments had increased over the last 10 years (Lea & Loughman, 1993). At the time of the study in 1993, 67.85% of departments spent under \$20,000 while just 10 years before, 84.3% of departments indicated they were spending under \$20,000 on legal activities (Lea & Loughman, 1993). In this study, respondents indicated that the areas in which counsel

was most needed included the general area of administration followed by marketing and negligence issues (Lea & Loughman, 1993).

Lea and Loughman (1993) suggested a review structure that athletics departments could utilize to manage legal issues. Under this model athletics departments would have an attorney in-house who would handle the legal matters, but would be required to seek approval from the university president's designee before actions were implemented (Lea & Loughman, 1993).

While certain issues are solely athletically related and would not require approval such as compliance, media contracts, and corporate sponsorships, for all other issues athletic departments should address them with the President (Lea & Loughman, 1993). This would allow for a greater integration of athletics into the overall institutional role. Many administrators indicated "the position of the athletics department in the overall structure of the school" to be a major concern (Lea & Loughman, 1993, p. 20). While to some extent one might say Presidents have greater control now, even twenty years later the discussion often focuses on whether or not there is a culture of institutional control and ensuring athletics aligns with this culture.

One area where in-house counsel can prove particularly beneficial would be the broad area of compliance. The study conducted by Lea and Loughman (1993) showed that compliance violations were a common area for lawsuits to be brought against schools. Individual administrators participating in the study went on to say that the tremendous increase in external regulations was most responsible for changes in athletic administration and the majority agreed that attorneys should hold the compliance officer positions (Lea & Loughman, 1993).

Compliance with the NCAA rules affects all constituents involved as the eligibility of student-athletes is at risk, coaches have responsibility, the institution can be penalized as a whole, boosters are limited by the rules, and all of these threats can result in disgruntled fans; therefore,

violations can lead to extraordinary negative effects. As Fuller (2009) strongly argues, just as corporations often rely on attorneys to supervise and act as compliance officers, athletic departments could benefit from having attorneys manage their compliance department as well.

One example of the athletics in-house model can be found at the Ohio State University. Here, the individual holds the title of Assistant General Counsel (Ohio State University, 2013). The individual is also listed as an athletics administrator with the title of Senior Associate Athletic Director (Ohio State University, 2013). While this may just be a structural setup and little practical implication, it at least presents the impression that an attorney in the General Counsel Office is also serving a role in athletics.

University Counsel

In order to evaluate the option of referring legal issues within athletics to the university counsel office it is first important to understand the role of that office within the university structure. One common misunderstanding of the university counsel office is who the client is and the purpose of the office. The university itself is the client of this office and attorneys within the office represent the university. Departments that make up the university and employees of the university are often included within this, but ultimately the general counsel office is looking out for the best interest of the university itself (Ruger, 1997).

One role of university counsel is a preventative function in which attorneys look to prevent formal litigation against the university from arising (Ruger, 1997). Ruger (1997) suggests that there are two main aspects of this preventive function, the first being to monitor the legal environment as a whole and maintain a knowledge of the current state of the law that is relayed to administrators (Ruger, 1997). Second, he says that university counsel should provide advice to campus clients in a timely and competent manner (Ruger, 1997). Etherton (2008)

explains (as cited in Peri, 2008): “the biggest benefit of inside counsel is that risks can be better managed and future legal costs minimized by laying proper legal foundation for the business’ future” (p.198)

Roderick Daane (1985) expands on the role of university counsel. Daane (1985) argues there are six basic roles of university counsel: advisor/counselor, educator/mediator, manager/administrator, draftsman, litigator, and spokesman. With these suggested roles in mind, we can evaluate the role that university counsel plays in relation to college athletics. These broad roles can be applied to the relationship with athletics just as to the university as a whole.

Universities in general have not always had attorneys on staff. The University of Alabama created the first campus legal office in 1925 but this did not become a trend right away (Ruger, 1997). In a 2005 edition of *The Chronicle of Higher Education* it was suggested that only within the last decade had smaller universities started hiring in-house counsel rather than using attorneys from outside firms (Lipka, 2005). The use of in-house counsel for universities as a whole has proven to be more cost effective (Lipka, 2005). This approach also allows for the individuals handling the matters to be more aware of the situation, the people involved, and the implications for the university. Peri (2008) argues that this in turn leads to better policies and better drafting for the university.

Central to the preventive function and the role of university counsel is the ability to create and counsel on departmental policies. This is especially true in regards to athletics. From drug testing and student-athlete code of conduct to missed class for competition and social media, these matters have a significant impact on student-athletes and their rights, therefore proper policies need to be in place. A publication from the National Association of College and University Attorneys has emphasized that when it comes to these student-athlete conduct matters

the general counsel at universities should ensure the department of athletics has proper policies in place (Varady, 2013). Effective policies can support and enhance the preventive function by ensuring clear expectation of those involved and establishing concrete steps for handling situations.

As it relates to athletics, institutions have different structures for their counsel office. Smaller institutions often have only one attorney on staff who acts as a general practitioner, advising all departments in general terms. These institutions may look to hire outside counsel if matters reach the litigation stage or for special situations. On the other hand some larger institutions likely have multiple attorneys on staff with each one having specific areas of expertise working under one general counsel. Even within this structure, though, there are different approaches such as having one associate counsel as the designated counsel for various departments, with the department of athletics being one of those departments assigned. Other offices may divide up solely based on legal area of expertise and any issue involving that particular area (e.g. employment, students, intellectual property, procurement) is directed to that individual regardless of the department.

Another argument in favor of using the university counsel relates to the integration of athletics with the university community. Timothy Davis (1995) formulated what he referred to as “A Model of Institutional Governance for Intercollegiate Athletics” that emphasizes this approach. In this model he suggests that intercollegiate athletics must operate under the concept that athletics is a subsidiary of post-secondary education (Davis, 1995). The athletics department is one of many departments within a university setting and is not intended to be a unit operating autonomously (Davis, 1995). While athletics programs have goals and objectives that are quite different than that of the English department, all departments combine to form the university and

all must operate in pursuit of the mission of the university (Davis, 1995). Utilizing university counsel for legal issues that arise in athletics provides support for this relationship, preventing athletics from addressing and acting on legal issues in a way that may be contrary to the mission of the university.

Cost is also an important factor to consider in using university counsel as opposed to athletic legal staff or outside counsel. University counsel is employed on a salary basis and has a duty to the institution to represent the many departments and areas that make up the university (Lee, 2010; Bickel, 1993). This means that attorneys in this office do not bill by the hour and therefore the cost of using them is typically free as opposed to the high cost of outside attorneys. As noted, departments of athletics present a lot of legal issues, which can be very complex; this could mean a lot of billable hours for outside attorneys.

The disadvantages of athletics using university counsel to handle their legal matters mainly come as a result of the size and scope of university counsel offices. With athletics being such a big business the legal issues facing that department are abundant. In order for university counsel to work as effective counsel they must be accessible to those who need to make decisions for the department (Bickel, 1993). While athletics are a big business with many legal issues to handle, athletics is only one department in a larger institution that has an abundance of legal matters across departments. This demand can create a dilemma as university counsel only has a limited amount of resources. The time and money constraints on university counsel offices may make it difficult to attend to all legal matters with utmost care (Bickel, 1993).

Outside Counsel

A third alternative to consider for legal advice is through outside counsel. Outside counsel provides many advantages, but also comes with some potential disadvantages. As

previously discussed the governing structure and rules established by the NCAA require individuals advising on these issues to be familiar with the specifics. In fact, many might argue that not only has sports as a whole created a specialty in the law, but a further specialty has developed in advising and representing institutions that face NCAA investigations (Heller, 1996). Often times notice of an NCAA investigation prompts institutions to hire an outside firm to handle or coordinate the university's response, especially when major violations are involved (Heller, 1996). Along with requiring a specific knowledge, these investigations frequently involve significant and focused time, which can prompt universities to utilize outside counsel (Heller, 1996). The athletics staff, as well as the attorneys in the university counsel office, have extremely busy schedules, which may not allow for them to adequately devote their undivided attention to an extended investigation by the NCAA. These investigations can involve multiple interviews, long responses to allegations, communication with enforcement officers, research on prior decisions by the Committee on Infractions, and gathering and reviewing records (Heller, 1996). Outside counsel can provide the time and attention necessary for such an investigation in a way that universities themselves may not be able to do. For instance, consider a recent investigation that took place at The University of North Carolina at Chapel Hill (UNC). The NCAA arrived on campus in Chapel Hill during the summer of 2010 after a tweet from a football player initiated suspicion for the NCAA. It was not until the spring of 2012 that the NCAA released formal sanctions against UNC (Timeline of UNC Football Scandal, 2013). The investigation and decision process lasted over two years for UNC and attorneys were needed each step of the way to advise and to perform the necessary functions involved in an NCAA investigation.

Again, the specialized skills and knowledge that characterize an ideal outside firm are important to note. Some of the skills suggested for an attorney conducting an NCAA investigation for an institution include: attention to detail, meticulous writing skills, the ability to use facts in an advantageous manner, problem-solving, and advocacy skills (Heller, 1996). As Heller (1996) suggests, the outside counsel essentially serves as a fact-finder more so than a defender of the university or athletic department. Once the facts are discovered the investigator then must know the appropriate bylaws to apply to the situation and prepare a report (Heller, 1996). This independent role allows for thorough investigation on behalf of the university and also benefiting the NCAA by providing a report from outside the internal department (Heller, 1996). Beyond just these initial skills though, some outside counsel may specialize further to act as defender, advocate and negotiator for the university. These firms may act as experts in areas such as contract law and employment and labor law as it relates to the unionizing of college athletes.

Call for more oversight

With the many legal issues facing departments of athletics and the fact these departments role as part of a larger university means it is necessary for there to at least be some oversight of the management of these issues. University presidents or chancellors are ultimately responsible for the decisions and conduct of all departments, including athletics; therefore these individuals need to be aware of situations and play some role in decisions. It was mentioned earlier that Lea & Loughman (1993) suggested a reporting structure to handle legal issues. Many others have called for an oversight of athletics, especially in relation to NCAA investigations. An article published by the National Association of College and University Attorneys (NACUA) discussed this matter, suggesting that at minimum the General Counsel of a university should review the

structure and operations of compliance within the department of athletics and periodically check that basic policies and steps are implemented (Varady, 2013). This article presented several factors for a university and the department of athletics to consider when determining what role the General Counsel should play as opposed to outside counsel. One of the prominent points though was that General Counsel and the university administration should play at least some role and be involved in the athletic department legal matters (Varady, 2013). In other words, an institutional oversight role is necessary to some degree.

Chapter 3

METHODOLOGY

This study had three defined purposes—to identify the legal issues most often faced in Division I departments of athletics, to determine the process by which departments manage these issues, and to discuss the positives and negatives of various approaches. A survey was conducted to gather the data.

Subjects

Two sets of subjects were utilized for the survey process due to the structural nature of colleges and universities with athletic departments being part of a larger institution. The first population was made up of 345 administrators in NCAA Division I college athletic departments. These individuals are on the front line of college athletics and their individual departments. The individuals responding to the survey were to be those in their department that most often handled the legal matters.

For the first group, comprised of all Division I athletic departments, the athletic director for each department was sent an email with a cover letter (Appendix D) explaining the study and asking for his or her participation. Email addresses were gathered from the websites of each institution. Both the athletic director and his or her administrative assistant/secretary. were collected. The cover letter indicated that the athletic director should forward the survey to the individual in the department that he or she would consider to manage the legal issues most often.

At the end of the letter a link was included to a website where individuals could access the survey if they chose to participate. This survey is included in Appendix B.

The second group of subjects was made up of attorneys in the university general counsel offices at the same 345 NCAA Division I institutions. A cover letter (Appendix E) was sent via email to the lead general counsel at each institution. Emails of general counsels as well as the administrative assistant or office manager were obtained from the website of each individual institution. The cover letter explained the purpose of the study and requested their voluntary participation. The letter also requested that the general counsel forward the survey to the individual in the office who most regularly interacts with athletics. The letter included a link at the end that directed readers to the online survey found in Appendix C. Some questions in Survey Two were similar to those asked in Survey One but directed to university attorneys and included questions about the specific structure of the university counsel office.

A reminder email was also sent to each group one week prior to the date that the survey closed. The cover letters found in Appendix F and G were used.

Instrumentation

Due to the nature and purposes of the study with two groups of subjects that have different roles in an institution, two different surveys were developed. Survey One (Appendix B) asked athletics directors or the representatives in the department of athletics that manage legal matters to answer questions regarding the legal issues of the department and the management of those issues. Survey One also asked basic demographic questions and opinions of respondents on the positive and negative aspects of the structure in place to address legal issues in their department.

Survey Two (Appendix C) was directed to a second population made up of attorneys in university counsel offices. The purpose of Survey Two was to gather information on the issues university counsel offices deal with regarding athletics and to seek answers about the structure of these offices in relation to issues in athletics. This group was asked questions about which issues athletics administrators direct to them, which issues their office is required to handle, the internal structure of their office in regards to athletics issues, and the amount of time their office spends on athletics issues. Along with these questions, basic demographic questions as well as opinion questions were asked.

Procedures

Once responses were collected, various descriptive statistics and frequencies were extracted to show which responses were most common among respondents. The results from the two populations were analyzed separately with frequencies and percentages calculated for both groups. The open-ended responses for various questions were coded and analyzed quantitatively by determining if certain responses occurred more often than others. These were also analyzed qualitatively by comparing the responses from the two sets of respondents as well as by extracting certain comments that exhibited interesting opinions.

Chapter 4

RESULTS

Overall, 345 athletics directors at all NCAA Division I institutions and 345 general counsels at those same institutions were sent an email and asked to participate in a survey. The athletics directors were asked to participate in Survey One and general counsels were asked to participate in Survey Two. Of the 345 athletics departments contacted, the emails at three schools could not be delivered leaving 342 athletics departments. Of those 342 athletics departments, 79 responded to the survey for a response rate of 23.1%. Of the general counsel offices at the 345 Division I institutions, the email to one school was undeliverable to the address listed leaving 344 general counsel offices contacted. Of the 344 general counsel offices, 36 responded to the survey for a response rate of 10.5%. For both populations, not all respondents elected to respond to every question. The results of the two surveys will be reported separately.

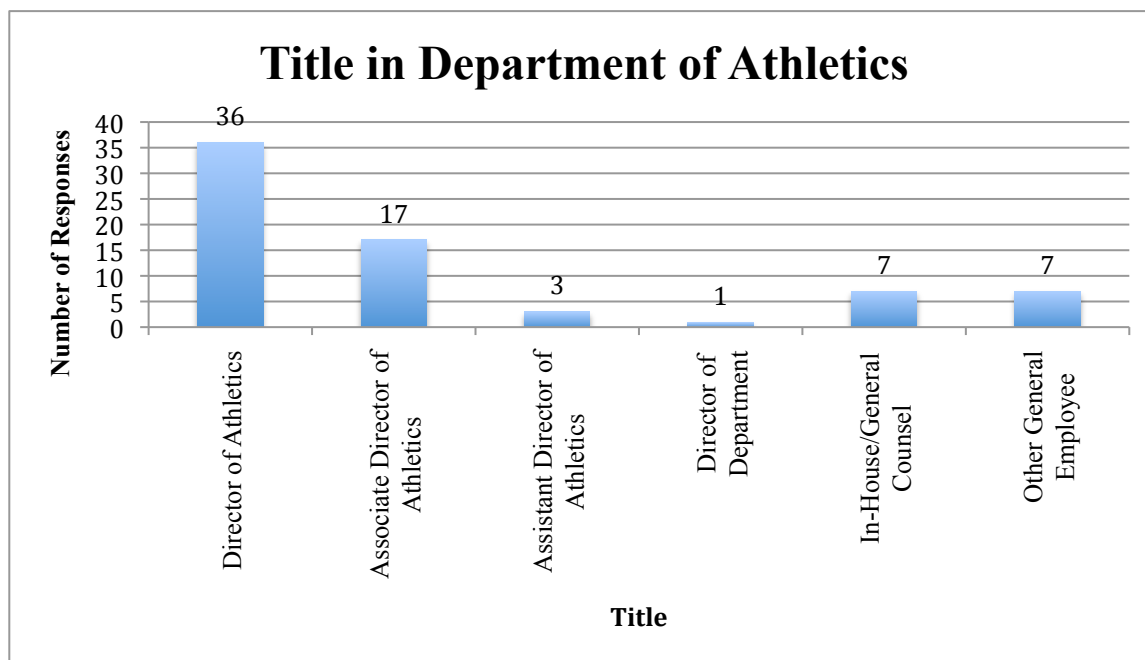
Demographic Information

Athletics Administrators Population

The majority of respondents (51%, 36 respondents, n=71) in the first population identified themselves as Directors of Athletics at the institution. Beyond this majority, 24% (17 respondents) classified themselves as an Associate Director of Athletics, 4% (3 respondents) as Assistant Director of Athletics, and 1% (1) as a Director of his/her department. Along with these, 10% (7 respondents) responded that they are In-House/General Counsel while another

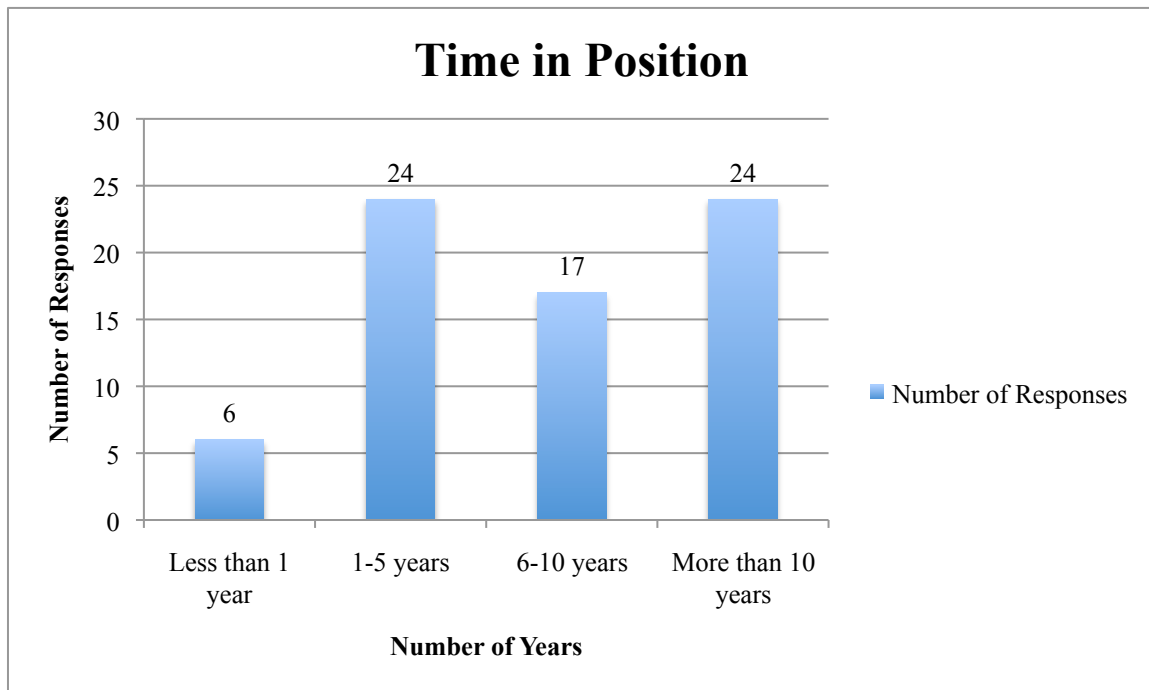
10% (7 respondents) consider themselves Other General Employees. These results are found in Figure 1.

Figure 1. Position in Athletics Department



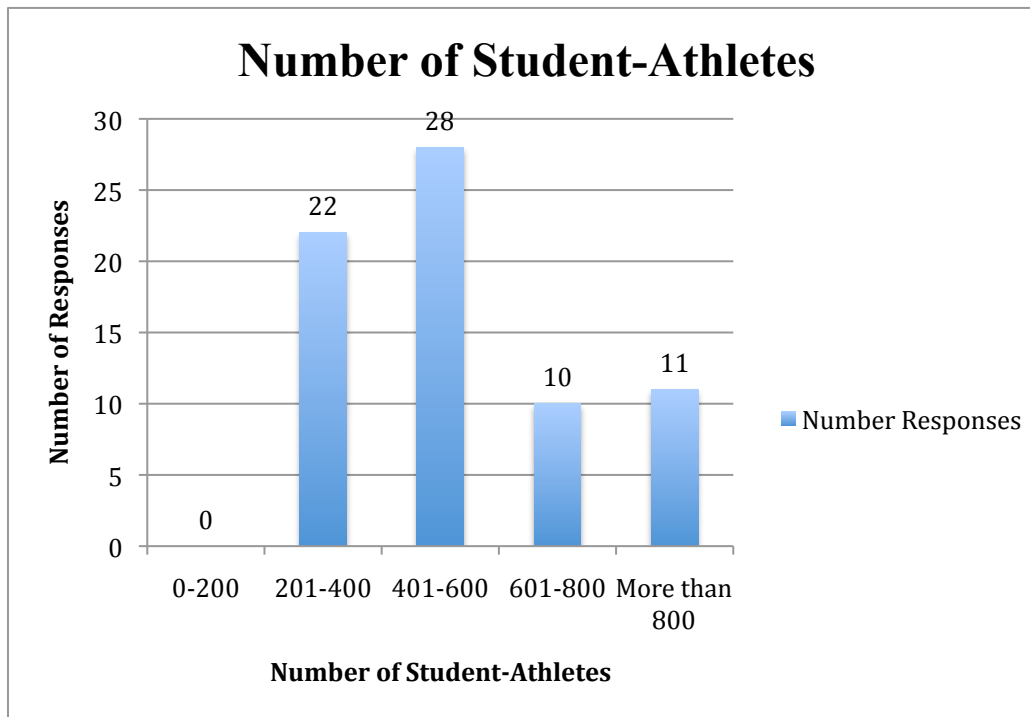
It appears that the athletics administrator most involved with legal issues in the department is either very new or quite experienced. Just over one-third (34%, 24 respondents, n=71) indicated that they have been in this position for “1-5 years” and the same number indicated “More than 10 years”. Six (8%) respondents selected “less than 1 year” while 17 (24%, n=71) respondents selected “6-10 years.” Figure 2 below displays the experience level of the athletics administrators.

Figure 2. Time in Position



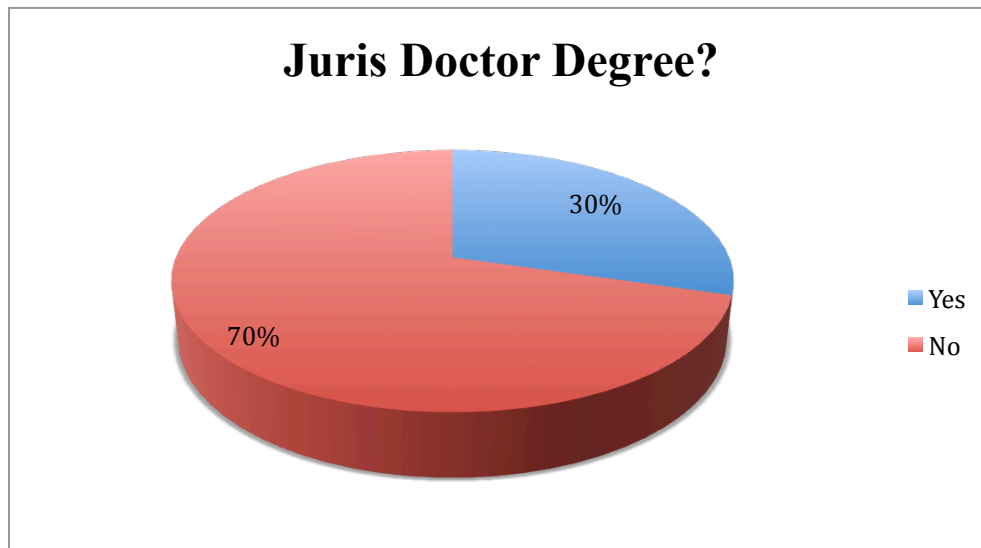
As for the profile of the institutions being represented by the participants of this study, they appear to mainly be public schools with a mid-level number of student-athletes. The majority of respondents, 49 (69%, n=71) indicated that their institution was public, while 22 (31%) respondents indicated they were at a private institution. The majority of respondents work in athletics programs that support “401-600” student-athletes accounting for 39% (28 respondents, n=71). Twenty-two respondents (31%) selected “201-400”, while “601-800” and “more than 800” accounted for a combined 29%. Figure 3 displays the results of the size of departments based on number of student-athletes.

Figure 3. Number of Student-Athletes at Institution



The demographic probably most related to the study was whether the respondent has a law degree. The majority of respondents indicated “no” they do not have a law degree (70%, 50 respondents, n=71) while 30% (21 respondents, n=71) responded “Yes.” Of those who have a J.D., about two-thirds (62%, 13 respondents, n=21) indicated that they have practiced law in a public or private setting. Figure 4 below exhibits the proportion of respondents who indicated they have a Juris Doctor degree.

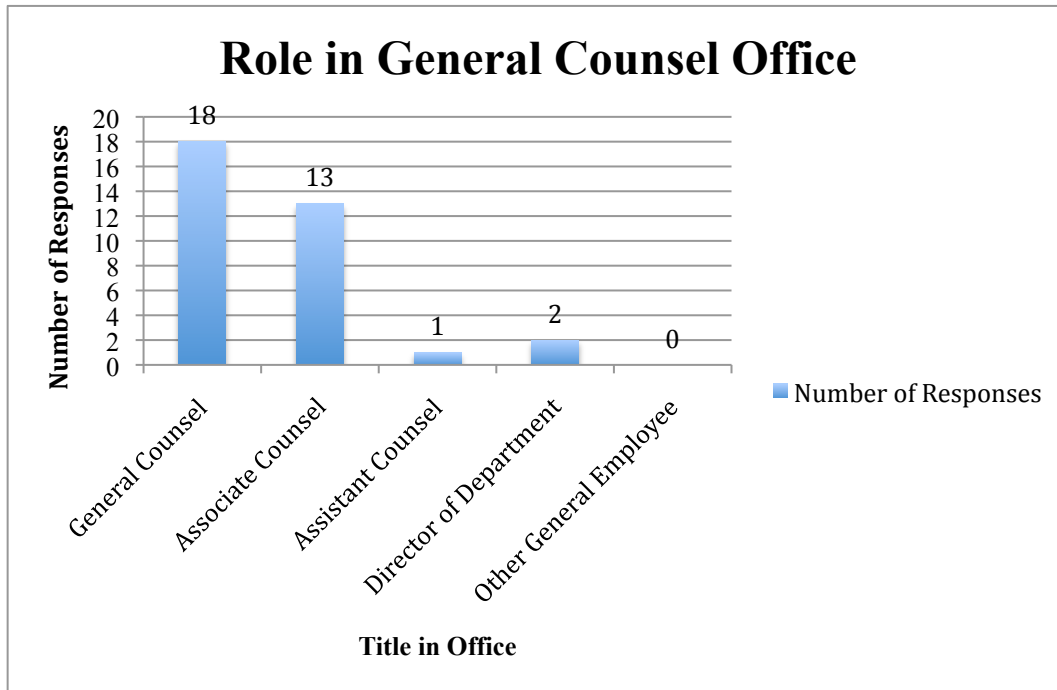
Figure 4. Respondents with a Law Degree



General Counsel Population

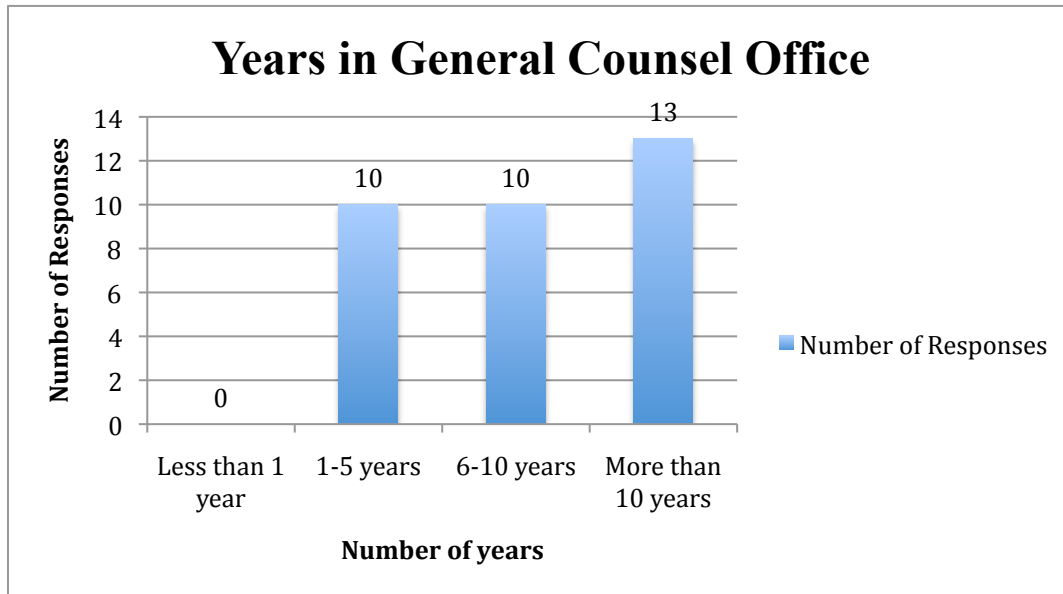
The General Counsel population was made up of mainly General Counsels or Associate General Counsels. Eighteen (50%, n=36) of the respondents indicated that they were General Counsel, thirteen (38%, n=36) indicated they were Associate Counsel, one (3%, n=36) person chose Assistant Counsel, and two (6%, n=36) selected Director of Department. Figure 5 displays the results for the office roles of the participants.

Figure 5. Role in General Counsel Office



Most respondents in this population had a great deal of experience in their role. While one-third (30%, 10 respondents, n=33) of respondents indicated they had been in the office for 1-5 years, another one-third (30%, 10 respondents, n=33) have been in their office for 6-10 years. However, the largest group (39%, 13 respondents, n=33) had been practicing in the office for more than 10 years. These results are displayed in Figure 6.

Figure 6. Experience in General Counsel Office



The profile of the institutions represented by the participants of Survey Two varied quite a bit. The majority of the institutions were public (76%, 26 respondents, n=34) but there were some private schools participating (24%, 8 respondents, n=34). As for the size of the general counsel offices at these institutions, they ranged from one attorney to seventeen attorneys. . The average number of attorneys was 1.9, the median number was 4, and the mode was 1, with 7 respondents indicating there was only 1 attorney on staff in their office. Table 1 shows the various responses for office sizes at the institutions represented.

Table 1. Number of Attorneys in the General Counsel Office

Number of Attorneys	Number of Responses
One	7
One.Five	1
Two	3
Three	2
Four	6
Five	1
Seven	5
Eight	1
Nine	2
Ten	1
Eleven	1

Twelve	2
Seventeen	1

Research Question 1

What are the legal issues faced by Division I college athletics departments?

Of the 16 legal issues identified, almost all departments face these issues at least occasionally. The majority responded that they face all issues to some degree, meaning the “Daily”, “Weekly”, “Monthly”, “Yearly”, and “Occasionally” responses accounted for a larger percentage of the population than “Never.” The legal areas of Torts against visitors to campus, Intellectual property, Torts against student-athletes, and Personal matters for student-athletes and employees received the most “Never” responses, which exhibits that for these departments these issues are the least likely to be faced by the responding departments. In total, for all areas combined, “never” was selected 161 times (16.0%, n=1,008), therefore from a totality perspective a large majority of respondents are facing the issues addressed. The only categories receiving zero “never” responses were contract negotiations, employment issues, and athletics camps/coaches camps. In a few other areas—contract drafting, risk management, gifts/development, NCAA and other compliance matters, and other—“never” was selected 3 times or less. Table 2 shows which issues departments indicated they are facing, as well as which ones some department representatives said they are not facing.

Table 2. Issues “Never” Encountered by Athletics Directors (or Assignees)

Legal Issue	Never Responses	Total Responses
Contract Negotiation	0	63
Contract Drafting	1	63
Employment Issues	0	63
Torts involving student-athletes, employees	21	62
Torts involving visitors to campus	26	63
Risk Management	1	63
Intellectual property	25	61
Tax issues	16	63
Criminal charges against student-athletes or	10	63

employees		
Personal matters for student-athletes or employees	20	63
Gender and racial equity issues—other discrimination issues	8	63
FERPA	8	63
Gifts/Development	3	63
NCAA and other compliance matters	1	62
Public records	11	63
Athletics camps/coaches camps	0	61
Other _____	2	6

From the General Counsel offices perspective, only 3 legal issues received “Never” responses from more than 20% of the respondents—Personal matters for student-athlete and employees, Tax, and Gifts/Development. Most issues had at least one participant select “Never” though, as only Contract negotiation, Contract drafting, and Risk management had zero responses in the “Never” category. Once again, for all issues asked about in the survey the overwhelming majority indicated that athletics faces it to some degree whether it be “Daily”, “Weekly”, “Monthly”, “Yearly”, or “Occasionally.” There was no response filled in for the “Other” category. Results are shown in Table 3.

Table 3. Athletics Issues “Never” Encountered by General Counsel Offices

Legal Issue	Never Responses	Total Responses
Contract Negotiation	0	27
Contract Drafting	0	27
Employment Issues	0	27
Torts involving student-athletes, employees	5	27
Torts involving visitors to campus	5	27
Risk Management	0	27
Intellectual property	2	27
Tax issues	8	27
Criminal charges against student-athletes or employees	4	26
Personal matters for student-athletes or employees	12	27
Gender and racial equity issues—other discrimination issues	3	27
FERPA	2	27
Gifts/Development	7	27
NCAA and other compliance matters	1	27
Public records	3	27

Athletics camps/coaches camps	1	27
Other	1	6

Research Question 2

Which of these legal issues occurs most often in Division I college athletics departments?

The results of Survey One, Question 12 provided a direct answer to the frequency with which athletics departments face the legal issues provided. There were 5 issues in which “Daily” was selected more than 10% of the time; these included contract negotiation (11%, 7 respondents, n=63), employment issues (14.3%, 9 respondents, n=63), risk management (14.3%, 9 respondents, n=63), NCAA/other compliance matters (35.4%, 19 respondents, n=62), and public records (11.1%, 7 respondents, n=63). Several more categories received more than 10% of responses for “Weekly.” Some of those categories were the same as those in “Daily”, the full list includes: contract negotiation (28.5%, 18 respondents, n=63), contract drafting (27%, 17 respondents, n=63), employment issues (33.3%, 21 respondents, n=63), risk management (15.9%, 10 respondents, n=63), FERPA (14.3%, 9 respondents, n=63), NCAA/other compliance matters (21%, 13 respondents, n=62), and public records (25.4%, 16 respondents, n=63). For most categories “Monthly” or “Occasionally” were the most common responses accounting for 52.8% (532 responses, n=1,008) of responses in all. Table 4 below reports all frequency results for each legal issue.

Table 4. Frequency of Legal Issues for Athletics Departments

Legal Issue	Daily	Weekly	Monthly	Yearly	Occasionally	Never	Total Responses
Contract negotiation (employment, vendor, etc.)	7 (11%)	18 (28.5%)	23 (36.5%)	9 (14.2%)	6 (9.5%)	0 (0%)	63
Contract drafting (employment, vendor, etc.)	6 (9.5%)	17 (27%)	25 (39.7%)	8 (12.7%)	6 (9.5%)	1 (1.6%)	63
Employment issues	9 (14.3%)	19 (30.2%)	21 (33.3%)	4 (6.3%)	10 (15.9%)	0 (0%)	63

Torts involving student-athletes	0 (0%)	0 (0%)	4 (6.4%)	6 (9.7%)	31 (50%)	21 (33.9%)	62
Torts involving visitors to campus	0 (0%)	0 (0%)	5 (7.9%)	3 (4.8%)	29 (46%)	26 (41.3%)	63
Risk management	9 (14.3%)	10 (15.9%)	16 (25.4%)	10 (15.9%)	17 (27%)	1 (1.6%)	63
Intellectual property	2 (3.3%)	4 (6.6%)	6 (9.8%)	6 (9.8%)	18 (29.5%)	25 (41%)	61
Tax issues	0 (0%)	4 (6.3%)	5 (7.9%)	11 (17.5%)	27 (42.9%)	16 (25.4%)	63
Criminal charges against student-athletes or employees	0 (0%)	0 (0%)	5 (7.9%)	12 (19%)	36 (57.1%)	10 (15.9%)	63
Personal matters for student-athletes or employees (e.g. traffic tickets, etc.)	0 (0%)	1 (1.6%)	10 (15.9%)	3 (4.8%)	29 (46%)	20 (31.7%)	63
Gender and racial equity issues--other discrimination issues	1 (1.6%)	0 (0%)	7 (11.1%)	12 (19%)	35 (55.6%)	8 (12.7%)	63
FERPA	5 (7.9%)	9 (14.3%)	13 (20.6%)	6 (9.5%)	22 (34.9%)	8 (12.7%)	63
Gifts/Development (e.g. donor estate planning)	5 (7.9%)	6 (9.5%)	18 (28.6%)	10 (15.9%)	21 (33.3%)	3 (4.8%)	63
NCAA and other compliance matters (e.g. Equity in Athletics Disclosure Act)	19 (35.4%)	13 (21%)	11 (17.7%)	6 (9.7%)	12 (19.4%)	1 (1.6%)	62
Public records	7 (11.1%)	16 (25.4%)	19 (30.2%)	1 (1.6%)	9 (14.3%)	11 (17.5%)	63
Athletics camps/coaches camps	0 (0%)	5 (8.2%)	13 (21.3%)	24 (39.3%)	19 (31.1%)	0 (0%)	61
Other	0 (0%)	0 (0%)	0 (0%)	0 (0%)	4 (6.7%)	2 (3.3%)	6

Question 10 on Survey Two directly asks the general counsel offices to indicate the frequency with which they face various legal issues in the athletics context. In the case of general counsel offices, there was only one issue that respondents selected “Daily” more than 10% of the time—NCAA/other compliance matters. The most common response for many issues was “Monthly”; contract negotiation (40.7%, 11 respondents, n=27), contract drafting (44.4%, 12 respondents, n=27), employment issues (44.4%, 12 respondents, n=27), risk management (33.3%, 9 respondents, n=27), and FERPA (40.7%, 11 respondents, n=27) all had the highest

percentage of responses in the “Monthly” frequency. The five legal issues that received the most “Daily” and “Weekly” responses in comparison to all other legal issues included contract negotiation (37.0%, 10 respondents, n=27), risk management (25.9%, 7 respondents, n=27), FERPA (25.9%, 7 respondents, n=27), NCAA/other compliance matters (25.9%, 7 respondents, n=27), and public records (44.4%, 12 respondents, n=27). Table 5 below reports all frequencies of each issue.

Table 5. Frequency of Athletics Legal Issues for General Counsel Offices

Legal Issue	Daily	Weekly	Monthly	Yearly	Occasionally	Never	Total Responses
Contract negotiation	1 (3.7%)	9 (33.3%)	11 (40.7%)	3 (11.1%)	3 (11.1%)	0 (0%)	27
Contract drafting	1 (3.7%)	5 (18.5%)	12 (44.4%)	4 (14.8%)	5 (18.5%)	0 (0%)	27
Employment issues	2 (7.4%)	4 (14.8%)	12 (44.4%)	4 (14.8%)	5 (18.5%)	0 (0%)	27
Torts involving student-athletes	0 (0%)	0 (0%)	1 (3.7%)	7 (25.4%)	14 (51.9%)	5 (18.5%)	27
Torts involving visitors to campus	0 (0%)	0 (0%)	2 (7.4%)	7 (25.9%)	13 (48.1%)	5 (18.5%)	27
Risk management	2 (7.4%)	5 (18.5%)	9 (33.3%)	4 (14.8%)	7 (25.4%)	0 (0%)	27
Intellectual property	1 (3.7%)	4 (14.8%)	6 (22.2%)	7 (25.4%)	7 (25.4%)	2 (7.4%)	27
Tax issues	0 (0%)	1 (3.7%)	1 (3.7%)	7 (25.9%)	10 (37.0%)	8 (29.6%)	27
Criminal charges against student-athletes or employees	0 (0%)	0 (0%)	2 (7.7%)	6 (23.1%)	14 (53.8%)	4 (15.4%)	26
Personal matters for student-athletes or employees (i.e. traffic tickets, etc.)	0 (0%)	0 (0%)	1 (3.7%)	1 (3.7%)	13 (48.1%)	12 (44.4%)	27
Gender and racial equity issues--other discrimination issues	0 (0%)	1 (3.7%)	4 (14.8%)	6 (22.2%)	13 (48.1%)	3 (11.1%)	27
FERPA	0 (0%)	7 (25.9%)	11 (40.7%)	1 (3.7%)	6 (22.2%)	2 (7.4%)	27
Gifts/Development (e.g. donor estate planning, etc.)	1 (3.7%)	5 (18.5%)	3 (11.1%)	5 (18.5%)	6 (22.2%)	7 (25.9%)	27
NCAA and other compliance matters (e.g. Equity in Athletics Disclosure Act)	4 (14.8%)	3 (11.1%)	5 (18.5%)	7 (25.4%)	7 (25.4%)	1 (3.7%)	27
Public records	2	10	7	2	3	3	27

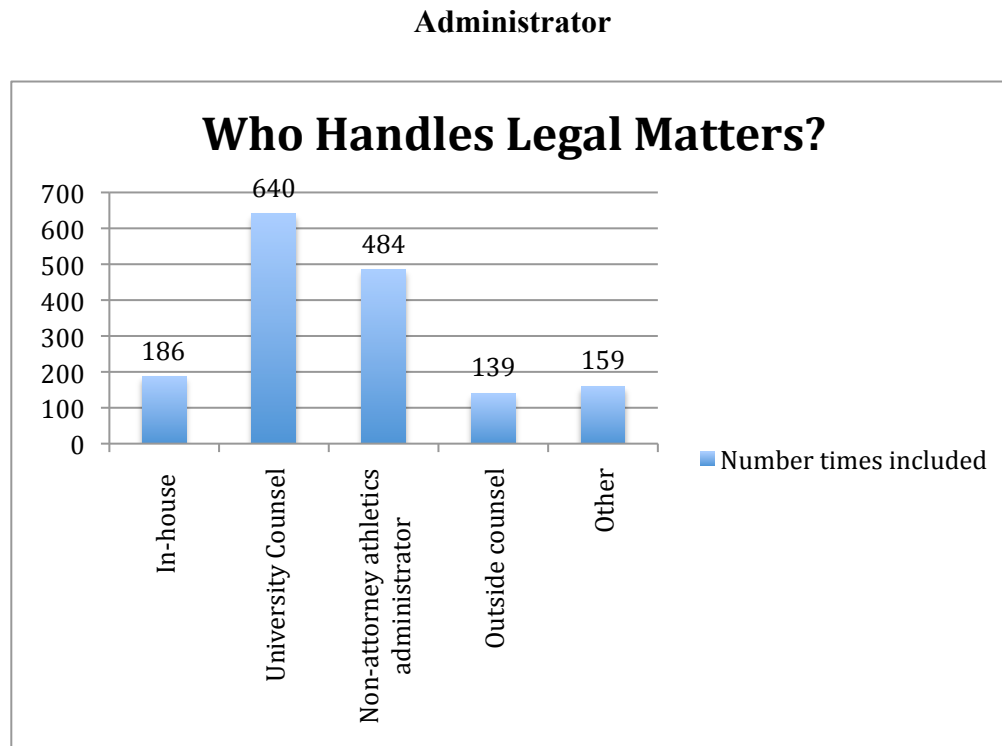
	(7.4%)	(37.0%)	(25.9%)	(7.4%)	(11.1%)	(11.1%)	
Athletics camps/coaches' camps	0 (0%)	1 (3.7%)	6 (22.2%)	9 (33.3%)	10 (37.0%)	1 (3.7%)	27
Other	0 (0%)	3 (50%)	1 (16.7%)	0 (0%)	1 (16.7%)	1 (16.7%)	6

Research Question 3

When legal issues arise in a Division I college athletics department, how does the department manage the issue—within the department, through University Counsel, using outside counsel, or a combination?

With the exception of four legal issues, university counsel was most commonly selected for each issue. Those four exceptions were personal matters for students-athletes and employees, gifts/development, NCAA compliance matters, and athletic camps/coaches camps. For these four issues, non-attorney athletics administrator was most commonly selected. These two choices, non-attorney athletics administrator and university counsel, together account for the large majority of responses. This can be seen in Figure 7.

Figure 7. Reported Frequency of Person Managing Athletics Issues According to Athletics



For many legal issues, combinations of the various choices were made by many respondents. In total, 955 responses were given across all the legal issues, but university counsel alone was the most common choice overall, selected 275 times (28.8%, n=955). The next highest selection was the combination of “non attorney athletics administrator” and “university counsel” which was selected 144 times (15.1%, n=955). There were a total of 27 different combinations of management structures made across the 16 legal issues. The results for combinations overall and by each legal issue can be seen below in Table 6 and Table 7.

Table 6. Who Handles Legal Matters According to Athletics Departments

Legal Issue	Attorney in Athletics Department	Non-attorney Athletics Administrator	University Counsel	Outside Counsel	Other	Total Responses
Contract negotiation (employment, vendor, etc.)	13	38	43	9	4	107
Contract drafting (employment, vendor,	13	28	48	8	4	101

etc.)						
Employment issues	13	37	39	9	10	108
Torts involving student-athletes or employees	12	17	47	14	6	96
Torts involving visitors to campus	8	11	48	13	5	85
Risk management	13	37	44	3	12	109
Intellectual property	6	15	45	8	11	85
Tax issues	5	21	36	14	14	90
Criminal charges against student-athletes or employees	11	25	39	17	11	103
Personal matters for student-athletes or employees (e.g. traffic tickets, etc.)	10	33	21	11	16	91
Gender and racial equity issues--other discrimination matters	13	38	49	11	12	123
FERPA	15	33	44	5	10	107
Gifts/Development (e.g. donor estate planning)	7	38	31	7	21	104
NCAA and other compliance matters (e.g. Equity in Athletics Disclosure Act)	19	48	32	7	8	114
Public records	13	27	44	2	7	93
Athletics camps/coaches camps	13	41	35	3	10	102
Other	0	0	0	0	1	1

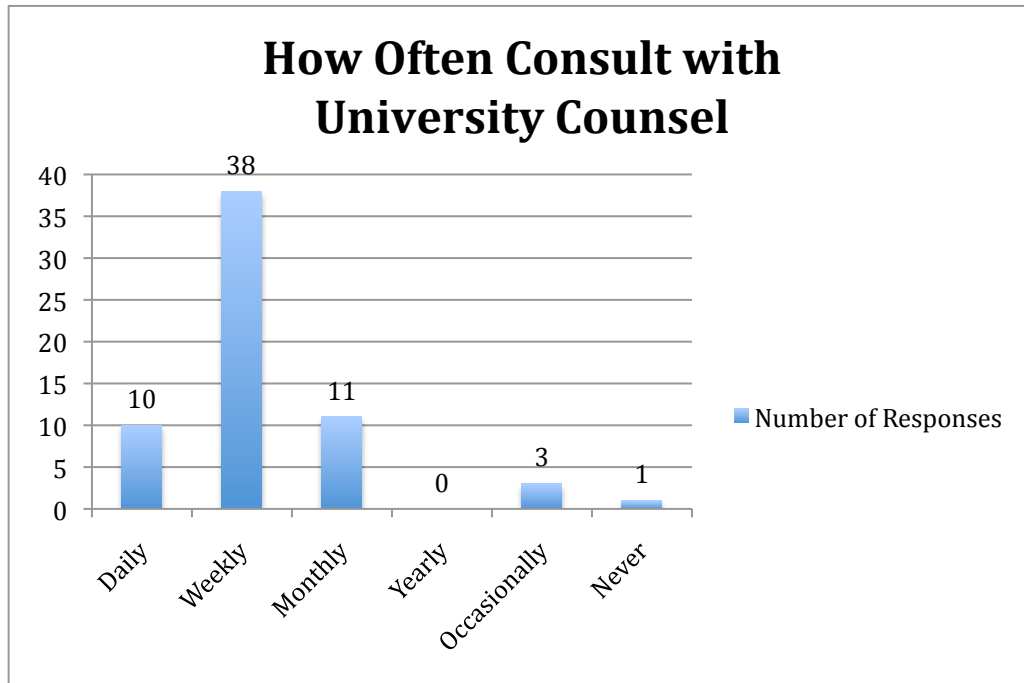
Table 7. Responses from Athletics Department by Combination

Selections	Number Responses	Percentages
University Counsel	275	28.8%
Non-attorney athletics administrator	117	12.3%
In-house counsel	25	2.6%
Outside Counsel	31	3.2%
Other	81	8.5%
Non-attorney athletics admin & University Counsel	144	15.1%
Non-attorney athletics admin & University Counsel & Outside Counsel	37	3.9%
University Counsel & Outside Counsel	20	2.1%
Non-attorney Athletics admin & Outside Counsel & Other	3	0.3%
In-house attorney, non-attorney athletics admin & University Counsel	77	8.1%
In-house attorney, non-attorney Athletics	19	2.0%

admin		
In-house attorney & University Counsel & Outside Counsel	4	0.4%
Non-attorney athletics admin & Outside counsel	10	1.0%
In-house attorney & University counsel	22	2.3%
In-house attorney, non-attorney athletics admin & University counsel & other	10	1.0%
Non-attorney athletics admin & university counsel & other	16	1.7%
Non-attorney athletics admin & other	21	2.2%
In-house attorney & non-attorney athletics admin & university counsel & outside counsel	11	1.2%
University counsel & Other	6	0.6%
In-house attorney & non-attorney admin & University counsel & outside counsel & other	11	1.2%
In-house attorney & outside counsel	3	0.3%
Non-attorney athletics admin & university counsel & outside counsel & other	6	0.6%
University counsel & outside counsel & other	2	0.2%
In-house attorney & non-attorney admin & outside counsel	1	0.1%
In-house attorney & Other	1	0.1%
In-house attorney & non-attorney admin & other	1	0.1%
In-house attorney & university counsel & other	1	0.1%
Total:	955	

Respondents were also asked specifically about the frequency of interaction they have with university counsel. A majority of respondents (60%, 38 respondents, n=63) indicated that they consult with university counsel on a weekly basis. Ten respondents (16%, n=63) said they interact daily, eleven (17%, n=63) indicated they interact monthly, and three (5%, n=63) said occasionally. There was one respondent who indicated that he/she never interacts with university counsel. These results are displayed in Figure 8.

Figure 8. Frequency Athletics Consults with University Counsel



Along with surveying the frequency of interaction with university counsel, respondents were also asked if there were certain issues that they would refer to university counsel. While a majority selected “yes” (57%, 36 respondents, n=63) it was not an overwhelming majority. Some respondents said “no”, however, as 27 respondents (43%, n=63) indicated there are not certain issues referred to university counsel. The 36 respondents who indicated there are particular issues they more commonly refer to university counsel were asked to provide which issues these are. Only 27 of the 36 (75%) provided a response. The most common response was contracts, but a variety of legal issues were mentioned. A full list of the legal issues mentioned by respondents can be found in Table 8.

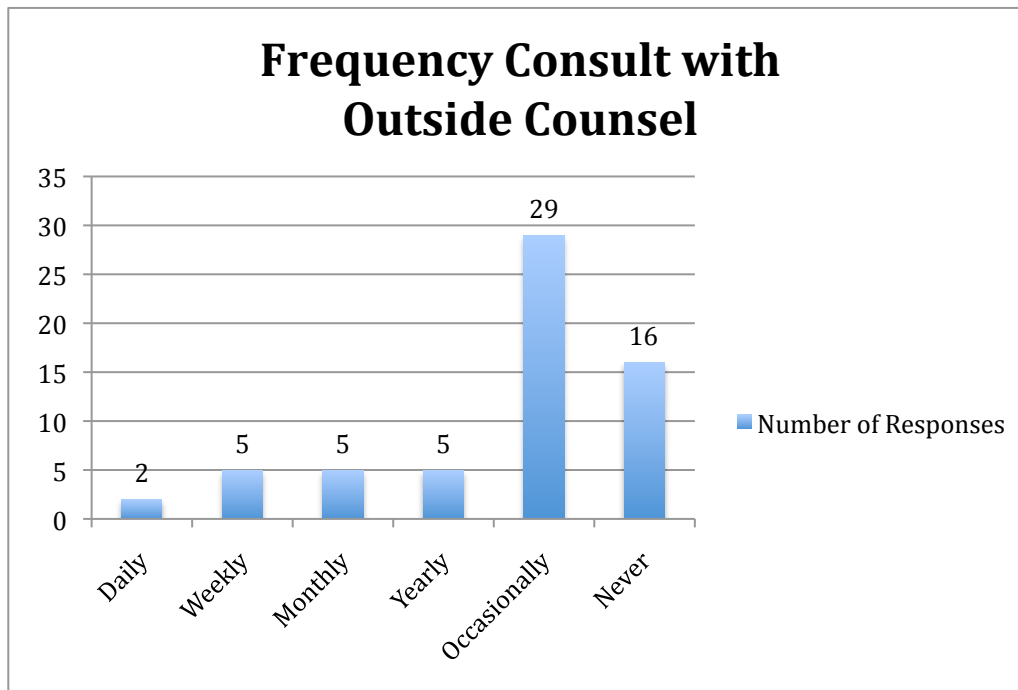
Table 8. Legal Issues Athletics Commonly Send to University Counsel

Responses
Employment contracts, third party agreements for rights holders, inquires from outside counsel for student-athletes
Various

FERPA/HIPPA/BUCKLEY, subpoenas, litigation
terminations, disciplinary issues
contracts
Multi year contracts, any legal issues involving the department as a part of the University, investigations
Review of legal documents after we write them, discussion of personnel matters and matters involving student-athletes, FERPA, HIPPA, Public Records, UAAA
contracts, lawsuits
I AM the in-house legal counsel for Athletics. I consult with my attorney colleagues (here referred to as "university counsel") in my office on matters of employment, tax, intellectual property, etc.
HR/Personnel,
personnel, contract
Contract drafts and outside legal claims
Contract drafting with external companies
Coaches Contracts, Larger NCAA Interpretations, Employment, Student-Athlete questions
employment
Media rights negotiations, game contracts, sports medicine issues, FERPA and other waivers, etc.
Contracts and law suits
contracts
contracts, major NCAA issues, open records issues
Contracts; business development; tax issues w sponsors and donors; HR issues
Contract drafts and negotiation
Visa Status
non-profit issues, cooperative agreements between govt and private
Compliance, personnel, regulatory (campus, conference, ncaa), policy
high level employment and sponsorship contracts
coach contracts
Contracts, law suits

Respondents were also asked how frequently they interact with outside counsel. The most common answer was “occasionally” with 29 (47%, n=63) respondents selecting this choice. Quite a few respondents indicated that they never consult with outside counsel as 16 (26%, n=63) respondents chose this answer. These results are displayed in Figure 9.

Figure 9. Frequency Athletics Interact with Outside Counsel



Following the inquiry on the frequency of their interaction with outside counsel further information was requested about the outside counsel process. First it was asked how outside counsel is obtained at their institution. From the 45 respondents to this question, 39 (86.7%, n=45) respondents included university counsel/general counsel in their response, which was by far the most popular answer. Other answers included the President's office, consultation with the Athletic Director, and the Board of Trustees. One of the more interesting responses was "Alumni." The full list of text responses can be found in Table 9.

Table 9. Responses for How Outside Counsel Is Obtained from Athletics Perspective

Text Responses
University counsel
University General Counsel contracts with outside attorneys.
Outside counsel is obtained in consult with University counsel.
Through the office of the President
Through the general counsel's office
Through our university counsel.

Only through our General Counsel
University Counsel in conjunction with the President and Board of Trustees
The University provides it.
University counsel hires outside counsel
General Counsel's Office will hire outside counsel
Attorney General, by statute, is required to represent us and required to seek and hire outside counsel
Univ Counsel determines use of outside counsel.
Office of General Counsel
via University General Counsel
State RFP process
Alumni
University Counsel
President's office or general counsel's office
Office of the General Counsel
through our university counsel
by general counsel
University Counsel
The university's Office of the General Counsel makes that determination.
Outside Counsel is contracted by the University Counsel
On contract; contract counsel reports to General Counsel, who also administers the contract.
General counsel engages outside counsel.
rarely, at the discretion of general counsel and the board
university hires them
Through General Counsel
University general counsel
On university retainer
Through general counsel office
The university
CEO of the non-profit company
Through University general counsel
University counsel makes that determination
UNIVERSITY COUNSEL
University Counsel
university counsel in consultation with athletic director and university president
Legal Counsel Office
University Council
Hired by University on retainer
Through the University Counsel
Through general counsel and chancellor/director of athletics.

Beyond just the general way outside counsel is retained, athletics administrators were also asked to provide an estimation of how much is spent on outside counsel. The most common responses indicated that the expenses for outside counsel were not charged to athletics as 8 respondents (24.2%, n=33) provided a similar answer. Seven respondents (21.2%, n=33) indicated that they did not know how much was spent. Of the responses that provided an

estimate the most common amount was \$10,000 with four respondents (12.1%, n=33) providing this as their answer. The full list of responses can be viewed in Table 10.

Table 10. How Much Is Spent on Outside Counsel Each Year From Athletics Opinion

Responses
10k
\$0. The funding comes from the University Counsel budget.
Minimal.
Expenses not charged to athletics
\$50,000
minimal
N/A - only General Counsel can hire and they pay
I have no idea as it is a University expense.
\$100K plus
The Athletic Department does not spend any resources on outside counsel.
Varies depending upon litigation (generally only send Athletics matters to outside counsel if it's litigation/NCAA infraction matters). Can range from \$0 to hundreds of thousands of dollars.
-0-
0 dollars. Unsure how much University might spend
5,000
Covered by the President's office
10,000
don't know
\$5,000.000
\$150,000
?
no clue handled by university council
N/A
university expense
Not sure
unknown
varies depending upon the year but could be in excess of \$250k
zero, part of the university
NO IDEA
10k
varies
No idea
\$10,000
Minimal

Continuing with seeking information about outside counsel, the majority (62%, 34 respondents, n=55) indicated that there are not certain legal issues they send to outside counsel. The other 21 (38%, n=55) respondents said “Yes” to there being particular issues they commonly rely on outside counsel. Those indicating there are certain issues outside counsel handles were

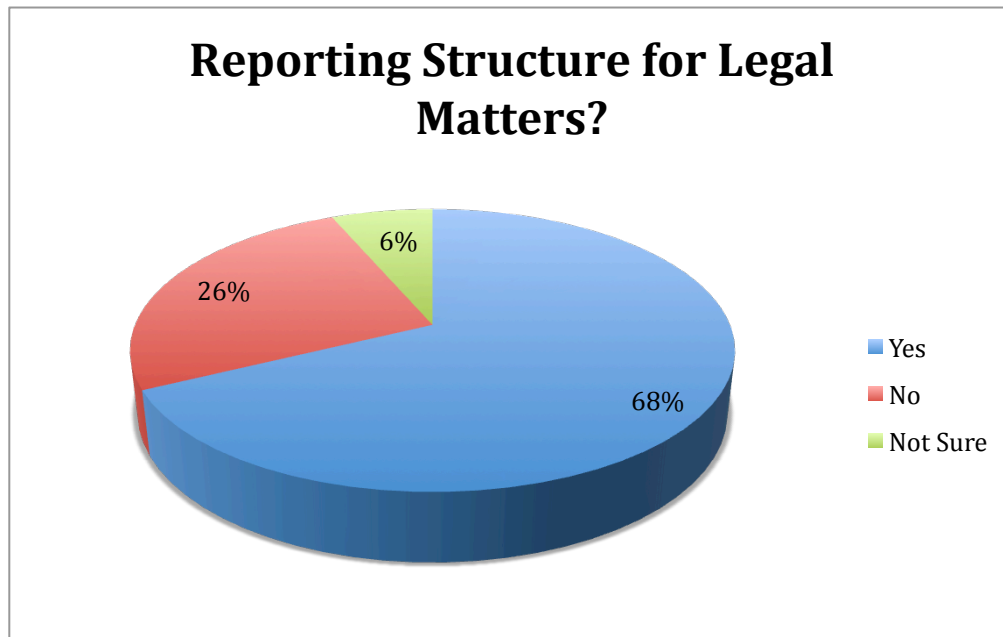
asked to provide the issues they commonly send to outside counsel. A variety of issues were included, but the most common answers were employment issues, tax issues, contracts, intellectual property matters, and litigation. One interesting response that actually appeared a couple of times was “visas.” Table 11 lists all of the responses provided for this question.

Table 11. Athletics Issues Handled by Outside Counsel

Responses
Employment Contracts
Tax bonds; litigation
Litigation; NCAA major infractions matters before Committee on Infractions
Intellectual Property; Some NCAA/Rules compliance issues
NCAA Compliance
Trademarks
Personnel Complaints
NCAA Compliance
Investigative Issues
Visa issues for international staff members
Litigation matters
Allowed representation of student-athletes; major tort claims
Contracts; legal matters
Taxes; employee issues
NCAA infractions cases that are beyond secondary level; personnel cases; licensing/trademark
Personnel matters
Litigation
Contract negotiation
H1B Visas

Respondents were asked a series of questions regarding reporting structures at their institutions as well. A majority (68%, 42 respondents, n=62) said “yes” to having a formal reporting structure/policy/procedure for legal matters that arise. On the other hand, 16 respondents (26%, n=62) chose “no” while four respondents (6%, n=62) chose “not sure.” Figure 10 displays these results.

**Figure 10. Does Your Institution Have a Formal Reporting Structure for Legal Matters?
(Athletics Directors)**



Following up on the reporting structure for legal matters, respondents were asked to provide a description of the structure at their institution. The full list of text responses can be found in Table 12. The most common response was university counsel with 28 responses (77.8%, n=36) including some version of university/general counsel in their answer. The president's/chancellor's office was also included by 7 respondents (19.4%, n=36). These results for most common responses are reported in Table 13 below. Other responses offered included athletics directors, athletics administrative staff, and various vice president roles. One of the most interesting responses stated the following: "I am the Sr. Assistant General Counsel for Athletics / Sr. Associate Athletic Director for Legal. I report to the General Counsel and have a dotted line report to the Director of Athletics. Everyone in Athletics reports legal matters to me and I take it from there!"

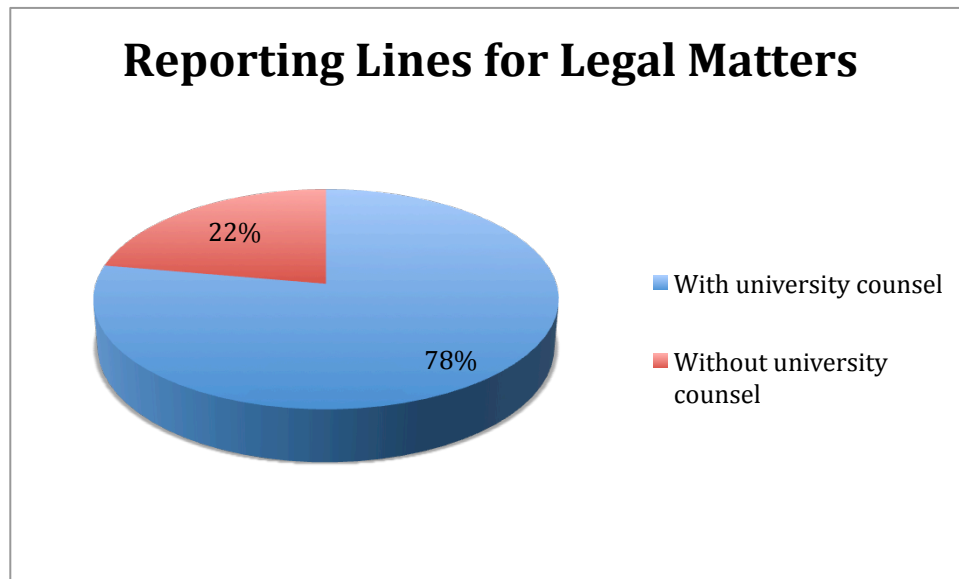
Table 12. Reporting Structures for Legal Matters as Described by Athletics Departments

Responses
University Counsel
General Counsel for the University and President
Office of General Counsel; Vice President for Legal Affairs; Senior Associate Counsel
General Counsel
President and Provost
most legal matters flow through the Executive Assoc. AD to the general counsel's office
President's Office
University Counsel
Senior Associate Athletics Director
University Counsel, VP for Student Development and University President and possibly University Police
University counsel
University Counsel
University Legal Counsel
Vice President/General Counsel in The Office of the General Counsel
I am the Sr. Assistant General Counsel for Athletics / Sr. Associate Athletic Director for Legal. I report to the General Counsel and have a dotted line report to the Director of Athletics. Everyone in Athletics reports legal matters to me and I take it from there!
Univ General Counsel and Public Safety (if criminal in nature)
Office of General Counsel
Vice President and General Counsel
University Legal Counsel
From Athletic Director directly to Legal Counsel
General Counsel and/or AA/EO
Deputy Athletic Director
University counsel
All legal matters are given to the University Counsel
Legal Affairs & General Counsel
University counsel
Athletic Director; University Counsel; President
Vice President administration
Athletic Director, University Counsel
Assoc. AD for Compliance and HR; also the Athletic Director
inspector general, staff judge advocate
university general counsel, system staff, university executive compliance officer
General Counsel
Chanlor and University General Counsel
Universit Counsel
Director of Athletics, Title IX Coordinator, Dean of Students, General Counsel, Chief of Police, Chancellor

Table 13. Summary of Popular Text Responses for Reporting Structures on Legal Matters

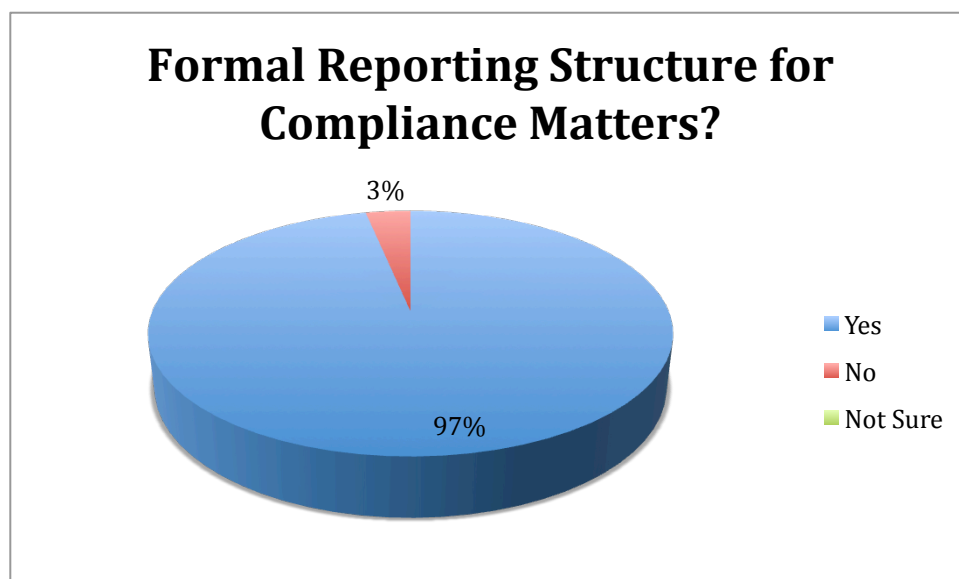
Response	Number of Responses
Included University Counsel	28
Included President/Chancellor's office	7
Others that did not include University/General Counsel nor President/Chancellor's Office	4

Figure 11. University Counsel Involvement in Reporting Structure (Athletics Directors)



Similar to the information on reporting structures for legal matters, questions were also asked about the reporting structure for compliance matters. In regards to compliance reporting structures, an overwhelming majority said they have a formal reporting line with 59 respondents (97%, n=61) saying “yes”, while only 2 (3%, n=61) respondents said “no.” Results are displayed in Figure 12.

Figure 12. Does Your Institution Have a Formal Reporting Structure for Compliance Matters? (Athletics Directors)



Furthermore, respondents were asked what that reporting structure looked like at their institution. The most common titles/departments provided were the athletics compliance office or some administrator in that office (i.e. Associate AD for compliance, Director of Compliance, etc.), the President/Chancellor, University counsel, Director of Athletics, and Faculty Athletics Representative. Most responses included multiple departments and/or individual titles to which the reporting line flows. Other interesting responses included “Chief Reporting Officer”, “Board of Trustees”, and a couple respondents indicated their institution has a University Compliance Office to which all compliance matters are reported. The full list of text responses is provided in Table 14 below.

Table 14. Reporting Structures for Compliance as Described by Athletics Directors

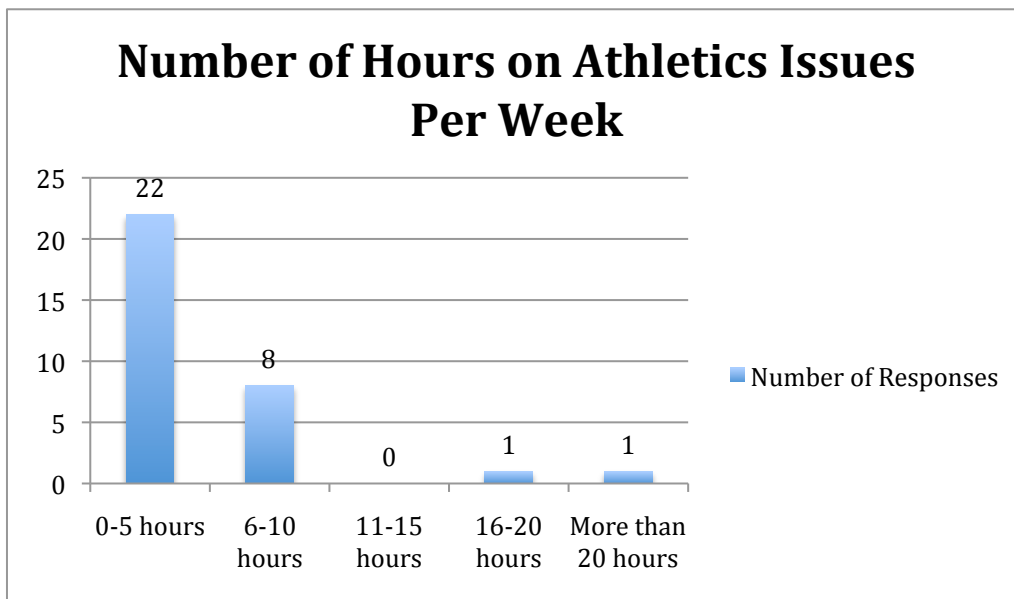
Responses
Chancellor, FAR, Chancellor Chief of staff,
University counsel....President
Assistant AD for Compliance, SWA/Senior Associate, Director of Athletics, General Counsel, President
Office of Legal Counsel; University President
Senior Woman Administrator
Assistant Athletics Director reports to Vice President for Athletics but also has a direct reporting line to the President if necessary

most compliance matters flow through the Sr. Assoc. AD for Compliance to outside counsel when necessary
Athletic Compliance Office
Director of Compliance & Chief Reporting Officer on campus
Senior Associate Athletics Director or Assistant Athletics Director of Compliance
Deputy Director of Athletics
Compliance reports to the Athletics Director, University President and Board of Trustees
University President, Athletic Conference, NCAA
Sr. Associate AD and Associate ADs
Associate Vice President/Director of Athletics - Department of Intercollegiate Athletics
Athletics Compliance matters (as well as medical, research, etc.) are reported to the new, centralized Office of University Compliance and Integrity to the Vice President and Chief Compliance Officer
Athletics Compliance Office - dotted line report to Univ General Counsel
Office of General Counsel President
Sr. Associate AD for Internal Operations to AD to President - dotted line to General Counsel
Assistant Athletics Director for Compliance and Eligibility. Faculty Athletics Representative.
From compliance director directly to legal counsel
Compliance Director, Athletic Director, University Counsel, FAR, President
Associate Athletics Director, AA/EO
Compliance Director or Deputy Athletic Director
'university compliance, Athletic Council President and systems compliance
Athletics Compliance office
to AD from Compliance director and to athletic conference and/or NCAA
Associate Athletic Director for Compliance, Director of Athletics, Chancellor, Faculty Representatives
Director of Compliance
Assistant AD/Compliance Director of Athletics President Asst. AD has a dual reporting line to the President and the Director of Athletics.
Senior Associate Athletic Director/SWA/Compliance Officer
President and General Counsel
General Counsel
Associate Ad for Compliance and Senior Associate AD
Compliance Coordinator; Compliance Committee; Board of Regents
Athletic Director; University Counsel; Title 9 Coordinator
Vice President administration, university Auditor
Assoc AD/Compliance, university counsel
Director of Compliance, Athletic Department
Assoc. AD for Compliance
Athletics Compliance Office: Director of Compliance Athletics Administration: Assoc. AD Internal Ops; AD University Counsel Chancellor FAR
compliance officer, athletic director, university president
university general counsel, university executive compliance officer, system staff
Director of Compliance reports jointly to AD, univ counsel
General Counsel
coaches, sr assoc ad, ad, FAR, president
compliance staff
General Counsel and Chancellortr
Director of compliance to Director of Athletics/FAR and President
Associate Athletic Director for Compliance, Director of Athletics, Faculty Athletics Representative.

Survey Two

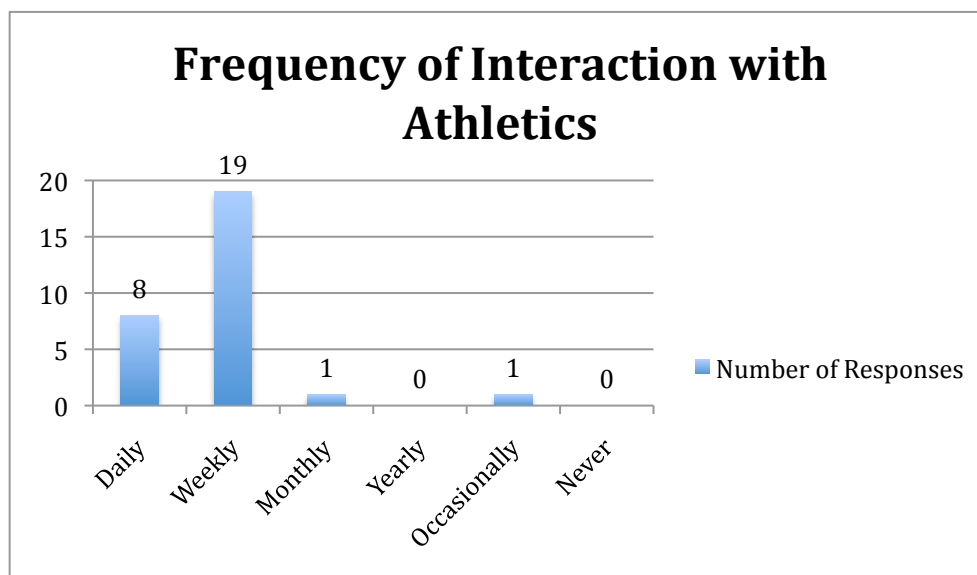
General counsels were asked the basic question of whether they assist with legal issues in athletics specifically. All 33 respondents (100%, n=33) who chose to answer this question said they do assist with issues in athletics. With all respondents indicating they help with athletics matters they were then asked how much time they spend on those athletics issues each week. The majority (69%, 22 respondents, n=32) indicated that they spend 0-5 hours on athletics issues in a typical week, 8 respondents (25%, n=32) selected 6-10 hours, 1 respondent (3%, n=32) said they spend 16-20 hours on athletics each week, and 1 (3%, n=32) selected more than 20 hours. No one selected the option of 11-15 hours per week. These results are displayed in Figure 13.

Figure 13. Hours Spent by General Counsel Office on Athletics Issues



For this question respondents were provided with the following answer choices: “daily”, “weekly”, “monthly”, “yearly”, “occasionally”, and “never.” Twenty-nine individuals elected to provide a response for this question. Of the 29 respondents, “daily” was selected 8 (28%) times, 19 (66%) respondents selected “weekly”, 1 (3%) respondent indicated “monthly”, and 1 (3%) respondent chose “occasionally.” The results of this question can be seen in Figure 14.

Figure 14. Frequency with Which General Counsel Offices Interact with Athletics



An overwhelming majority (94%, 31 respondents, n=33) of respondents in the general counsel office who deal with athletics issues indicated that they consult with others about these matters too. The other two respondents (6%, n=33) selected “no” that they do not consult with others. Respondents were then asked to indicate with whom they consult on these athletics matters. A variety of answers were provided but the most common response was Athletics Director and other athletics administrative staff, which was listed by 10 different respondents. The next most common titles/departments were Title IX Coordinator and Compliance Coordinator/Officer, with both of these being listed by 9 different individuals. Other common responses included Human Resources, Equal Opportunity and Diversity office, the Business and/or Finance office, and the President/Chancellor office including vice chancellors. Three people indicated that they consult with outside counsel. The entire list of these responses can be found in Table 15.

Table 15. Who Is Consulted by General Counsel for Athletics Issues

Responses
Title XI, Compliance Director, CFO, Chief of Staff, Sports Supervisors, Athletic Director and Deputy

Athletic Director, Bus Dev and HR Director in Athletics; Legal experts in conflict of interests, employment, labor and relations, in Office of General Counsel; Vice Chancellor for Administration; HR in Office of President
Title IX Coordinator, University Counsel at other institutions represented by the Office of the Attorney General
Title IX Administrator, Title IX coordinator, Compliance officer, Equal Opportunity and Diversity, Employee and Labor Relations, Human Resources
Title IX Coordinator, EEOC Officer, Compliance Director
T. IX coord; Athletic Dir.; Assoc AD for Compliance; outside counsel
Athletics CFO, AD, Compliance Director
Compliance officer (Title IX and EEOC); Human Resources; Purchasing/Business; University Relations (PR); IT
AD, Athletics Business Officer, Compliance Director, Title IX Coordinator, CFO, Controller, and outside counsel
HR, Title IX Coordinator, Administration and Finance
Student Affairs (VP and Dean of Students); Human Resources (Employee Relations, Benefits); Center for Students with Disabilities (Director); Risk Management and Insurance (Director); President; Executive Vice President; Finance (VP, Treasurer); Community and Government Relations (VP)
title IX coor; in-house counsel at sister institutions; outside counsel specializing in sports law
Compliance Officer, Athletic Director(s), Coaches, Athletic Dept. Admin Staff
Other attorneys in this office, EEO, HR, Controller's Office, Dean of Student's office, Registrar, Compliance director; controller
Risk Management, Audit and Compliance, Policy, Litigation

After determining whether university counsel works on athletics matters from a broad, general perspective, general counsels were then asked about the ways or people at their institution that handle specific legal issues in athletics. Question 12 of Survey Two directly asked respondents about this topic. Respondents were asked to choose all that apply for this question since multiple people may work on the various legal matters and because of that combinations of options were applicable. Of the 684 selections made, 325 (47.5%, n=684) selections were for “university counsel” whether that was solely university counsel or in combination with others. The next most common response was “non-attorney athletics administrator”, which was selected 187 (27.3%, n=684) times. Respondents selected “outside counsel” 72 (10.5%, n=684) times while selecting “other” 99 (14.5%, n=684) times. The choice

of “attorney in athletics department” was only selected one time (0.15%, n=684) and that was for NCAA and other compliance matters.

Many responses for the various legal areas included a combination of selections. There were 440 answers given in total for all legal areas with answers ranging from selecting a single choice to selecting four choices. For most of the areas, 28 respondents elected to provide an answer with the exception of intellectual property (26), tax issues (27), personal matters for student-athletes and employees (25), and public records (26). The most common selection, made 144 times (32.7%, n=440) across the areas, was “university counsel” by itself. The only selection that came close to this was the combination of “non-attorney athletics administrator” and “university counsel.” This combination was selected 97 times (22.0%, n=440) across the areas. Other choice combinations that were made more frequently included “other” as a sole choice which was selected 44 times (10%, n=440) and “non-attorney athletics administrator” as a sole choice which was selected 35 times (8.0%, n=440). The results of the combinations from this broad, overall perspective are shown in Table 16.

Table 16. Frequency of Combinations for General Counsel Offices

Selection	Number of Responses	Percentages
Non-attorney athletics administrator	35	8.0%
University counsel	144	32.7%
Outside counsel	26	5.9%
Other	44	10%
Non-attorney athletics administrator & University counsel	97	22.0%
Non-attorney athletics administrator, University counsel & Outside counsel	18	4.1%
Non-attorney athletics administrator & Other	12	2.7%
Non-attorney athletics administrator, University Counsel & Other	20	4.5%
University counsel, Outside counsel, & Other	2	0.5%
University counsel & Outside counsel	20	4.5%
University counsel & Other	17	3.9%

Non-attorney athletics administrator, University counsel, Outside counsel , Other	4	0.9%
In-house counsel, University counsel & Outside counsel	1	0.2%
	N=440	

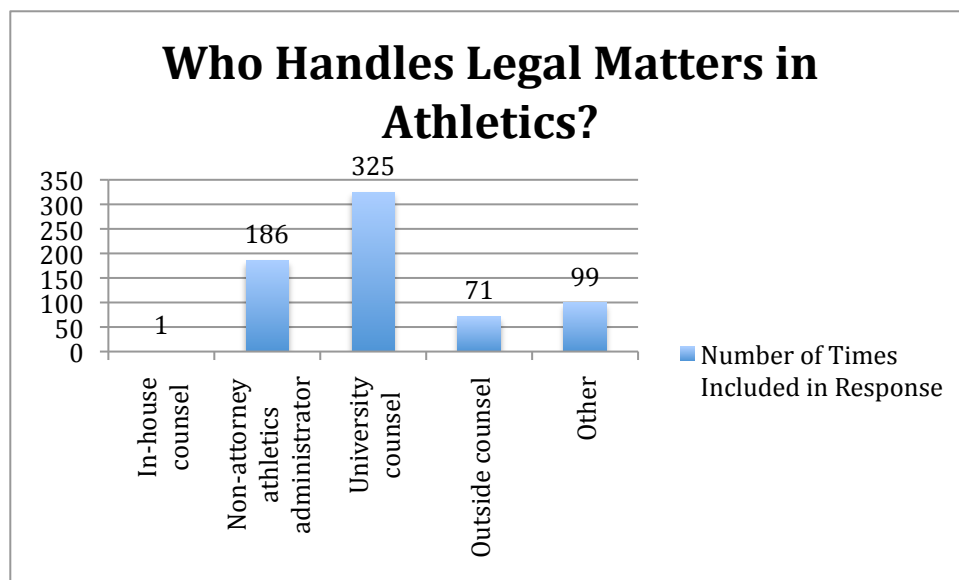
Turning to results based on each legal issue, the responses and combination of selections varied depending on the issue. Contract drafting and contract negotiation had the fewest different number of answers amongst respondents as only four different combinations were selected for these two particular issues. For contract drafting in particular the only choices made amongst the 28 respondents were “university counsel” (67.9%, 19 respondents, n=28), “outside”(3.6%, 1 respondent, n=28), the combination of “university counsel,” “outside counsel,” and “other”(3.6%, 1 respondent, n=28) and the combination of “non-attorney athletic administrator” and “university counsel” (25%, 7 respondents, n=28). The “university counsel” choice (67.9%, 19 respondents, n=28) for contract drafting was the answer that produced the highest frequency within a specific issue. Results for who handles the matter as broken down by each legal issue can be found in Table 17.

Table 17. Who Handles The Issue from General Counsel Perspective

Question	Attorney in Athletics Department	Non-attorney Athletics Administrator	University Counsel	Outside Counsel	Other	Total Responses
Contract negotiation	0	20	23	1	0	44
Contract drafting	0	7	27	2	1	37
Employment issues	0	13	27	5	0	45
Torts involving student-athletes or employees	0	6	23	13	3	45
Torts involving visitors to campus	0	4	22	13	3	42
Risk management	0	12	21	2	11	46
Intellectual property	0	8	21	3	2	34
Tax issues	0	5	14	4	13	36
Criminal charges against student-athletes or employees	0	8	16	11	11	46
Personal matters for	0	9	3	2	16	30

student-athletes or employees (i.e. traffic tickets, etc.)						
Gender and racial equity issues--other discrimination matters	0	14	27	3	8	52
FERPA	0	11	26	1	6	44
Gifts/Development (e.g. donor estate planning, etc.)	0	18	11	2	11	42
NCAA and other compliance matters	1	19	22	7	4	53
Public records	0	11	20	1	6	38
Athletics camps/Coaches' camps	0	21	20	1	4	46
Other	0	1	2	1	0	4

Figure 15. Reported Frequency of Person Managing Athletics Issues According to General Counsel



The issues that produced the most variety in answers were NCAA and other compliance matters and criminal charges against student-athletes or employees. Both of these issues produced 10 different combinations of answer selections. Gifts/development and risk management both produced nine different combinations amongst respondents.

While outside counsel was selected only 71 times (16.1%) of the 440 selections for who handles legal matters, an overwhelming majority (76%, 22 respondents, n=29) indicated that

there are certain legal issues in athletics for which they seek help from outside counsel. The remaining seven respondents (24%, n=29) indicated there are not any particular issues that the office chooses to seek outside counsel. The 22 respondents that indicated there are certain athletics issues that they seek outside counsel for were then asked to identify which issues those were. The most common answer was NCAA/compliance/investigation matters with 11 respondents (64.7%, n=17) including some version of this as a response. Figure 16 displays the frequency of NCAA issues being included. The other common answer was litigation with eight responses (47.1%, n=17). Other answers included intellectual property, tort liability, conference agreements, tax issues with sponsorships, and venue construction agreements. The entire list of responses can be seen in Table 18.

Figure 16. Seeking Outside Counsel for NCAA-Related Issues (General Counsels)

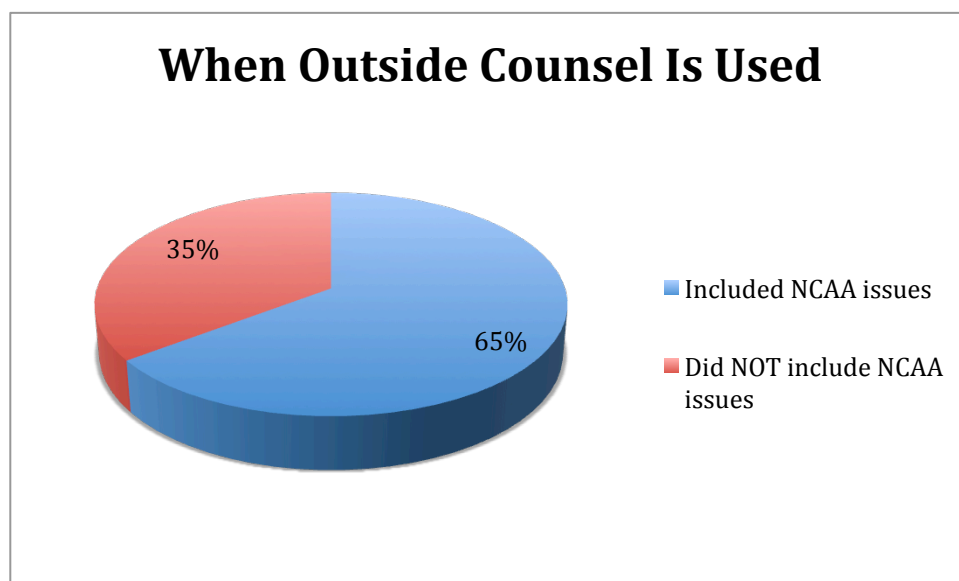


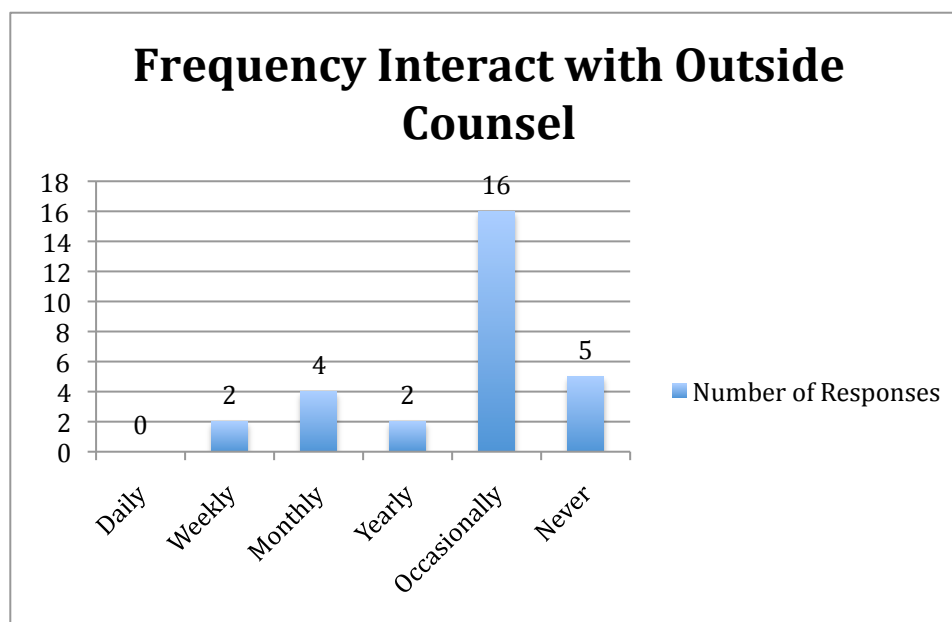
Table 18. Issues in Athletics That General Counsel Seek Outside Counsel for Help

Text Responses
NCAA, intellectual proprety
Major NCAA Infraction cases
lawsuits, compliance matters

anything that involves litigation goes to outside counsel
NCAA issues
any litigation
Certain NCAA compliance matters, certain coaching contracts and tax treatment of certain corporate sponsorships
Significant or high-risk student-athlete matters; media and conference agreements
investigations
NCAA enforcement; any litigation
largely civil litigation, criminal matters and NCAA investigations
active litigation
Employment, Tort liability issues
NCAA issues, litigation is handled by the Attorney General because we are a public institution
conference change, some compliance matters, venue construction
Personal injury issues
litigation. More serious NCAA issues.

Beyond just the issues which general counsel referred to outside counsel, the study also sought to determine how frequently the offices were interacting with outside counsel on athletics matters in order to further support findings of who was handling the legal issues in athletics. The majority of respondents indicated that they only “occasionally” (55%, 16 respondents, n=29) interact with outside counsel, while the next most frequent response was “never” (17%, 5 respondents, n=29). Responses indicating more frequent interaction--“Daily” and “Weekly”--only accounted for a combined four responses (14% n=29) and only a combined six respondents (20.6%, n=29) said they interact on a “monthly” or “yearly” basis. A total of five respondents (17%, n=29) indicated that they “never” consult outside counsel on athletics matters. These results can be viewed in Figure 17.

Figure 17. Frequency of Interaction with Outside Counsel by General Counsel for Athletics Matters



General counsel offices that indicated they at times consult with outside counsel, also were asked about the way outside counsel was retained for their institution. The majority of respondents listed the general counsel office or the Attorney General’s office as the way outside counsel is obtained. A few respondents indicated that athletics pays for outside counsel despite general counsel selecting and others said general counsel sought input from athletics, the President’s office, or others. Overall though, most indicated that the general counsel office selected and secured outside counsel. All responses are provided in Table 19.

Table 19. How Outside Counsel Obtained from Perspective of General Counsel Offices

Text Responses
Office of the General Counsel; Athletics department pays
The Attorney General has appointed outside counsel to provide legal services on NCAA and intellectual property matters for all State universities.
Major NCAA Infraction Cases. Outside counsel are hired by the General Counsel through our Office of General Counsel
University counsel retains
Retained by General Counsel
State Attorney Generals Office (by statute)
General Counsel

GC
All hiring and communication of outside counsel goes through university's office of general counsel
I contact counsel directly
campus general counsel's office, in consultation with athletics
Chosen by either General Counsel office or State Risk Management for certain civil litigation
Through office of University General Counsel
I do as in house counsel
Selection depends on the issue. As for tort and employment issues, we have counsel provided through our insurers. For other issues, my office selects with advice and consent of the President.
University counsel retains outside counsel with input from Athletics staff and President; litigation matters are handled by the Attorney General
We use an RFI process each biennium to select and contract with a range of outside counsel
Inside counsel's office
General Counsel selects outside counsel
General Counsel

General counsel offices were also asked to estimate the amount spent per year for consulting with outside counsel on these issues. Responses to this varied and the full list can be viewed in Table 20. Three respondents (15.8%, n=19) indicated that they spend no more than \$5,000 each year on outside counsel, two respondents (10.5%, n=19) indicated that they spend no more than \$10,000 per year, two respondents (10.5%, n=19) said no more than \$20,000, and three respondents (15.8%, n=19) provided an answer that was more than \$20,000 but no more than \$100,000. One respondent (5.3%, n=19) estimated \$100,000-\$400,000 being spent each year on outside counsel. Five people (26.3%, n=19) indicated that the amount varies based on the situation so no amount was estimated and three others (15.8%, n=19) said they did not know.

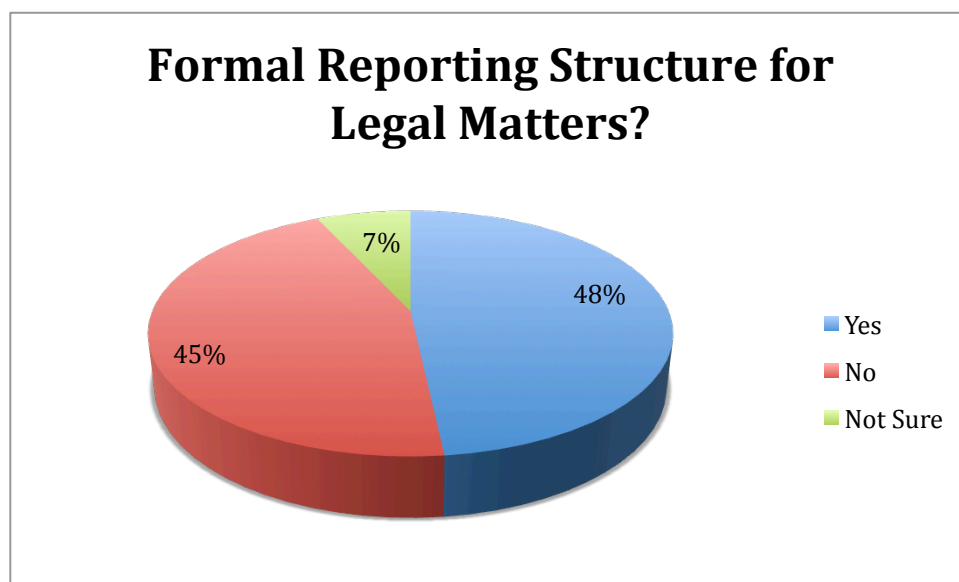
Table 20. General Counsel Estimates of Amount Spent on Outside Counsel For Athletics Issues

Text Response
\$0 - \$5K
No expenditures unless involved in major NCAA infractions case
don't know
\$10k - 20k
\$25K to \$75K
On a regular basis, \$0; special projects or circumstances could result in a change
\$60K for athletics compliance matters and \$24K for other matters
varies
\$5000-\$10,000

< \$5,000/ann
70000
Estimated average of \$20,000 or less
\$5000
Unknown. I am not the budget manager for those issues. It is hard to tell since it varies on claims and issues that arise. Employment and tort claims carry a deductible.
No good estimate--it is rare for us to hire outside counsel
100-400k
Varies. Most years, zero.
50k
less than \$10K

General counsel offices were also asked a set of questions on the reporting structures for their institutions in order to further the development of a clearer picture of who was involved in handling legal matters. The responses on a formal reporting structure for legal issues were almost even with 14 respondents (48%, n=29) indicating “yes” and 13 (45%, n=29) responding “no.” There were two respondents (7%, n=29) who selected “not sure.” Figure 18 displays these results.

Figure 18. Is There a Reporting Structure for Legal Matters? (General Counsels)



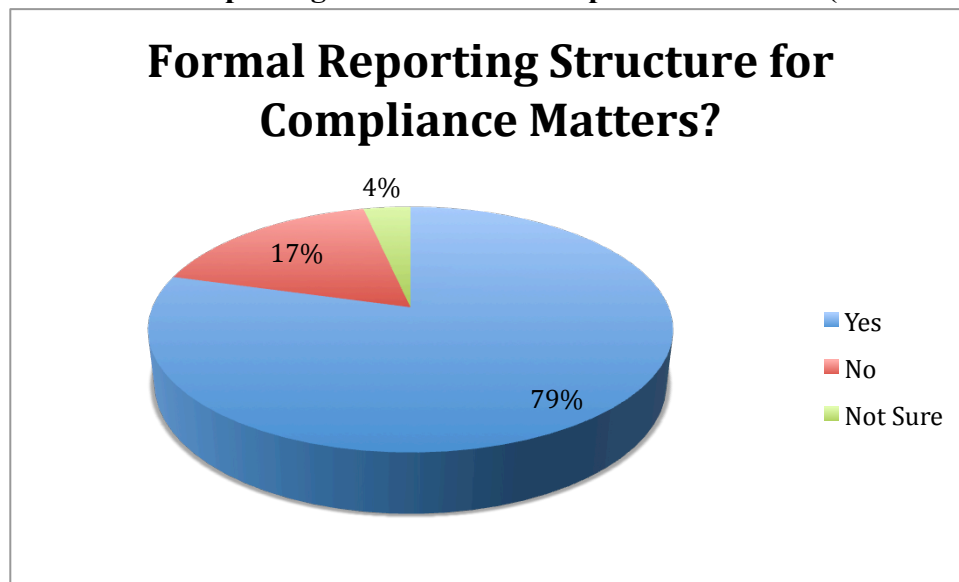
The responses indicating who is involved in the reporting structure varied a great deal. Some of the answers included “Athletics Chief of Staff is liaison”, “All claims are initially referred to Human Resources”, and “Campus General Counsel, Faculty Athletics Rep, and Chancellor.” All responses to this question are provided in Table 21. The most common answer was General Counsel with President/Chancellor’s office also appearing in many responses.

Table 21. Reporting Structures for Legal Matters as Relayed by General Counsel Offices

Text Response
Athletics' Chief of Staff is liason to Office of Legal Affairs; I am on liason to Athletics. We have monthly standing meetings and keep each other in the loop on all matters. Roughly 10 Athletics' administrators feed legal issues directly to me.
Athletics Director; President; General Counsel
The chief compliance officer reports to the AD on a day-to-day basis, to the President on a quarterly basis and as needed, and the Board of Trustees Legal Affairs Committee on an annual basis and as needed
MySafeCampus, Compliance Coordinator, Office of the General Counsel
Title IX Coor; Chancellor; Chief of Staff; Gen Counsel
Campus General counsel, Faculty Athletics Rep; Chancellor
Offices of Legal, Budget, Controllers and President
AD, University Counsel, Chancellor; Also there is an Athletic Advisory Committee that gets regular reports
All claims initially are referred to Human Resources, which office acts as a commincation point and claims co-ordinator.
Presidents Office, Chancellor's Office, Board Office
Title IX Coordinator/President's Office; VP for Student Affairs/Student Affairs Office

In regards to a reporting structure for compliance matters, the overwhelming majority (79%, 23 respondents, n=29) indicated their institution does have a formal reporting structure. This left five respondents (17%, n=29) that said “no” they do not have a formal structure to which the compliance matters are reported and 1 respondent (3%, n=29) said they were “not sure.” These results are displayed in Figure 19.

Figure 19. Is There a Reporting Structure for Compliance Matters? (General Counsels)



Respondents were also asked to provide a description of the reporting structure for compliance matters at their institution. These responses can be found in Table 22 below. Responses included things such as “To the AD on a day-to-day basis; to the President on a quarterly basis and as needed; and to the Board of Trustees Legal Affairs Committee on an annual basis and as needed”, “Reports may be made anonymously or by name through on-line reporting or through too-free number to an outside contractor; contractor reports issue to Compliance Office and Internal Audit who report issue to Athletics Compliance and, probably, depending on nature and seriousness, to Legal and the Office of the President” and “Compliance Officer in Athletics has a reporting line to Office of Legal Counsel as well as to AD.”

Table 22. Descriptions of Reporting Structures for Compliance Matters According to General Counsel Offices

Text Response
NCAA Compliance Officer; Athletics Director; President; General Counsel
OCR, DOJ, others as appropriate
Faculty Athletics Comm and GC
Associate AD for Compliance; Faculty Athletics Representative; President's office, General Counsel
Compliance officer, A.D., President, Conference Office, NCAA

Compliance Officer in Athletics has a reporting line to Office of Legal Counsel as well as to AD
To the AD on a day-to-day basis; to the President on a quarterly basis and as needed; and to the Board of Trustees Legal Affairs Committee on an annual basis and as needed.
AD President, GC
gen counsel; chancellor; chief of staff
Cam;us general counsel's office, Faculty Athl. Rep.; Chancellor
Compliance Officer, General Counsel, Athletic Director(s), President
Reports may be made anonymously or by name through on-line reporting or through too-free number to an outside contractor; contractor reports issue to Compliance Office and Internal Audit who report issue to Athletics Compliance and, probably, depending on nature and seriousness, to Legal and the Office of the President.
Those are handles by the compliance officer at Athletics.
Vice President for Business and Finance, General Counsel, President
President, Chancellor, Board
Office of the Chancellor
Vice President of Development
Assoc. AD-Compliance Officer/Athletics Dept; University Counsel's Office

Research Question 4

What are the advantages and disadvantages of each structure model?

Two main survey questions addressed this question. Respondents were able to provide an open-ended response to a question on the positive characteristics and a question on the negative characteristics. Responses by athletics administrators varied but many included points about communication and keeping everyone aware and involved. The full list of text responses is shown in Table 23.

Table 23. Positive Characteristics Identified by Athletics Departments/Administrators

Text Response
Good and responsive team in place
Internal reporting is consistent and pretty thorough. Educational programs are provided annually to all Athletics staff.
Communication.
Open communication and transparency
Centralized communication to general counsel's office our outside counsel
It is clear and efficient.
We have a single point person, so everyone in the department knows where to send legal issues. I communicate directly with General Counsel. I spent 11 years in our General Counsel's office, so I know when to call them and what to handle.
We have an outstanding person for legal counsel who is accessible at all times.
We are aggressive in managing and containing problems.

Close relationship with University Counsel
Proactive, thorough, collaborative
Great communication with the General Counsel's office.
I know what's happening with everything involving legal / athletics. This allows me to provide pro-active legal advice on a regular basis and not "miss" anything. I am very embedded within the Department of Athletics which makes for good client service.
Strong communication and cooperation; outside reporting line if necessary; excellent attorneys
Multiple people involved with the ability to jump directly to President's Office and/or General Counsel
Inclusion
Legal counsel has more experience and better able to work through issues
Good use of in-house University Attorney
We refer to the professionals and provide plenty of information to employees and students regarding their support services.
good relationship with university legal counsel
Have a compliance director who is a lawyer
don't know
Great working relationship; responsive attorneys
We use a wholistic approach to problem solving where the senior staff collaborates to address all issues including legal ones
Longevity in the position has created an atmosphere of trust in the General Counsel.
Our compliance officers report directly to General Counsel
open communication
formal conduit to legal and regular meetings set. built trust.
Alignment of Intercollegiate Athletics with central administration.
Proactive approach; good problem solving when all parties are involved early; open communication and swift response; protect the interests of the university;
Direct access, regular communication, clear lines of communication
Very accessible
We know whom to go to when we have an issue. University council is very accommodating when working with us.
Everyone is involved and there is a "no surprise" practice for campus leadership
efficient and consistent
We are very transparent and communicative with regard to issues. Integrity is at the core of athletics mission statement. Employees and student-athletes receive continuing education regarding rules and regulations and the compliance/monitoring/risk management systems are robust and effective.
never had any issues, must work fine
WE ARE SMART AND HAVE GREAT SUPPORT OF OUR COLLEAGUES. WE ASK SUGGESTIONS
Always consult university attorney
understand how to manage them
Transparent communication no
There is a good culture of compliance and self reporting.
It demonstrates institutional involvement in decisions that relate to the Department of Athletics
Thorough and clear reporting structure.

Just as with the positive characteristics respondents were also asked to write-in their response in their own words for negative characteristics. Fewer respondents chose to provide a response to this question in comparison to the positives with only 30 participants providing a negative characteristic. The full list of negative characteristics provided can be seen in Table 24.

Many responses seemed to indicate that the busy nature of individuals involved was a negative characteristic, while many others simply said “none.”

Table 24. Negative Characteristics Identified by Athletics Departments/Administrators

Text Responses
Some time there are a rush of issues that bog down the counsels office
Sometimes the timeliness of response to matters such as contracts is slower than we would like.
Procedure needs to be more streamlined.
None
no.
None
I am confident with our counsel and procedures.
We pick and choose what we send to university counsel.
None
Sometimes it is challenging to communicate to people just how important these matters are.
I'm busy!
N/a
Our University legal counsel is very busy
dont know
We have a small administrative staff, each of whom wears several hats which makes it diffiult a times to get everyone in the same room to do problem solving
There is only one in house counsel, so the workload can be burdensome.
Some coaches do not understand the need for compliance reporting to General Counsel. They appear to want to keep things within the department.
they are so swamped that it is difficult to resolve things immediatly
Sometimes less nimble.
none
Auditor has very limited understanding of NCAA regs
Can't think of any.
takes too long
There are no negatives. Cases are managed appropriately and expediently.
could probably be more formal, but with current univ counsel and our great trust in him, it works great.
NONE
none
None
Not enough legal knowledge or acument permeating through the department
Process can be cumbersome and does not fit every situation.

General counsel respondents also provided positive and negative characteristics for the structures in place at their institutions. Table 25 reports the full list of positive responses provided by general counsel respondents. Twenty-one respondents provided positive characteristics with many of these discussing communication, collaboration and teamwork. Only 12 respondents listed negative characteristics and these are seen in Table 26. Many of the

negative characteristics included mentions of athletics not using the resources in university counsel enough.

Table 25. Positive Characteristics Identified by General Counsel Offices

Text Response
Team oriented, proactive approach
Excellent, knowledgeable staff.
Managed by the Office of General Counsel.
We have had very few such issues, fortunately.
There is review of compliance matters outside of athletics for serious compliance issues.
Flexible, efficient, reasonably fast
I have objectivity and represent the interests of the institution. I also work with Athletics enough to know the key personnel well and I am able to get up to speed quickly.
We have regular and effective communication between the GC and the AD as both serve on the President's Executive Council.
We are proactive and have a great working relationship of trust with the athletic department.
Integrity; Conscientiousness
Collaborative and thoughtful strategy and decisionmaking
elevation of sensitive matters to my office
Collaboration; dotted line reporting relationship for athletics compliance to GC.
Reports may be made anonymously with outside vendor; no one in institution gets to decide if reported and there is, thus, no fear of retaliation. Three offices (Compliance, Internal Audit & Human Resources) initially receive report; thus no fear of someone hiding, misplacing or failing to forward/investigate a report. Legal office handles and is not a part of athletics with no reporting relationship; separation ensure not dependency/pressure or conflict of interest to make a decision that is favorable or not favorable to athletics
We are proactive in addressing all contracts, student matters and other athletic related issues when there is an opportunity to react and mitigate issues.
In house counsel is able to give a faster and more comprehensive/preventative response than outside counsel.
Recognition that athletics are one component of the institution with its own particular set of issues, however, it has many issues in common with other elements of the institution. Academic issues, student issues, facility issues, compliance issues, conflict of interest issues, business issues.
Teamwork between Athletics Department and Counsel's Office
Close coordination between legal, compliance, athletics and risk management.
The good relationship between General Counsel's office and Athletic Administrators
Not every issue in athletics, including student discipline, eligibility, etc, is treated as a legal issue.

Respondents from general counsel offices provided very few negative characteristic responses. Only 12 respondents provided a negative characteristic. The responses given can be seen in Table 26.

Table 26. Negative Characteristics Identified by General Counsel Offices

Text Responses
The effectiveness of the process depends on the administrators' making the time to keep legal in the loop.
Excellent, knowledgeable staff probably consults university counsel not often enough
Athletics is relatively unsophisticated about legal issues, when they do arise.
At times, more legal oversight could be helpful to identify issues or risks
Too little time to spend on things like training.
any attempt to solve problems within silo of dept
Tickets to games are like GOLD; possibility to attorneys wanting tickets can submit to pressures to keep friends in athletics who may be able to get tickets.
Some of these matters are time-consuming and cannot be addressed as quickly as constituents would like.
Less depth of knowledge on specific athletic issues in the General Counsel's office.
The nature of athletics is that it can occupy greater than its share of time and attention at the highest levels of the organization.
Like most institutions, the athletic department can get isolated from the rest of the campus.
Athletic Depts has few controls and many incentives to avoid oversight of its actions.

Further exploring the advantages and disadvantages of various models for managing legal issues in athletics, respondents were given a variety of options and asked about the perceived effectiveness of those models. From the perspective of athletics departments, each model was identified with various levels of effectiveness. A full overview of the responses is displayed in Table 27. For the in-house counsel in athletics option 22 respondents (38.6%, n=57) identified it as “completely effective” while 25 respondents (43.9%, n=57) thought it would be “somewhat effective.” Figure 20 below shows these results. For the model of sending all matters to university counsel, 19 respondents (33.3%, n=57) identified it as being “completely effective”, 25 respondents (43.9%, n=57) felt it would be “somewhat effective”, and 12 respondents (21.1%, n=57) said “somewhat ineffective.” These results are displayed in Figure 21.

Table 27. Effectiveness of Various Models as Perceived by Departments of Athletics

Model	Completely Effective	Somewhat Effective	Somewhat Ineffective	Completely Ineffective	Total
In-house counsel within athletics to manage all	22	25	8	2	57

legal issues in athletics					
All legal issues to university counsel	19	25	12	1	57
Outside counsel manages all athletics legal issues	1	20	27	8	56
Athletics Administrator oversees + work closely with university counsel	25	23	9	0	57
Athletics administrator oversees + works closely with outside counsel	6	25	16	8	55
Other	0	0	1	0	1

Figure 20. Effectiveness of Athletics In-House Counsel Model from Athletics Perspective

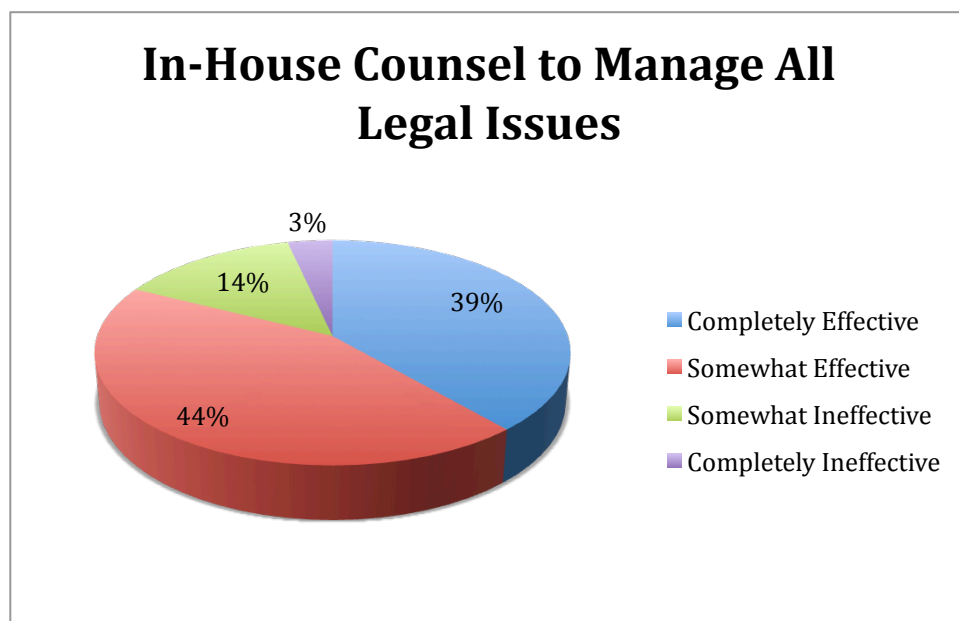
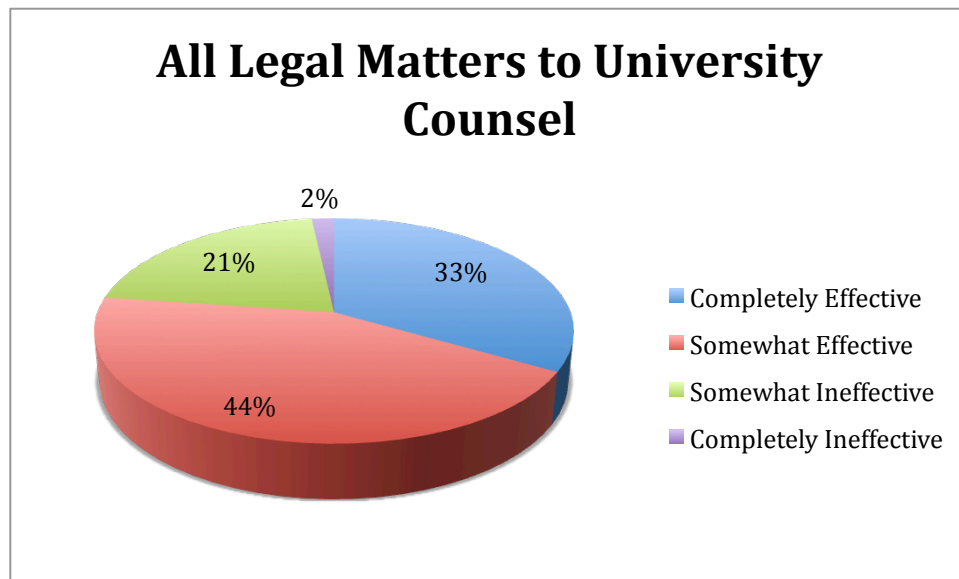
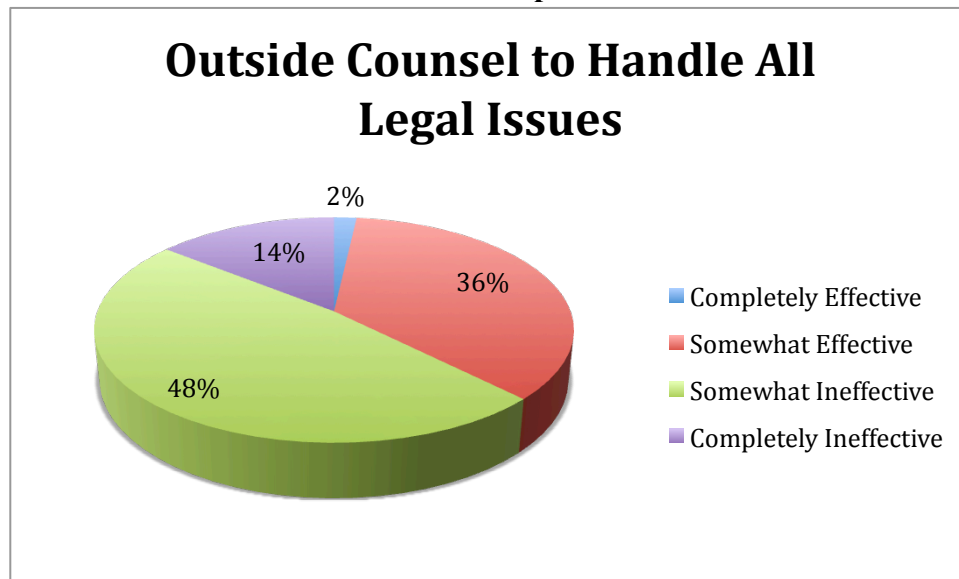


Figure 21. Effectiveness of Sending All Athletics Issues to University Counsel from Athletics Perspective



One structure model was relying on outside counsel to oversee all legal matters. This option received a large number of “somewhat effective” and “somewhat ineffective” as responses. Twenty respondents (35.7%, n=56) said this option would be “somewhat effective” and 27 respondents (48.2%, n=56) said it would be “somewhat ineffective.” Figure 22 displays these findings.

Figure 22. Effectiveness of Relying on Outside Counsel for All Athletics Matters from Athletics Perspective



For the structure model of an athletic administrator overseeing legal matters and working closely with university counsel the “completely effective” and “somewhat effective” answers were most common with each being selected a similar number of times. This model received the most responses that identified it as being some level of “effective.” Twenty-five respondents (43.9%, n=57) indicated they felt it would be “completely effective” and 23 respondents (40.4%, n=57) said “somewhat effective.” Figure 23 exhibits these results. The combination of an athletics administrator working with outside counsel received mostly “somewhat effective” responses (45.5%, 25 respondents, n=55) as well as several respondents (29.1%, 16 respondents, n=55) identifying it as “somewhat ineffective.” Figure 24 below shows these responses.

Figure 23. Effectiveness of Using a Combination of Athletics Administrator and University Counsel to Oversee Athletics Issues from Athletics Perspective

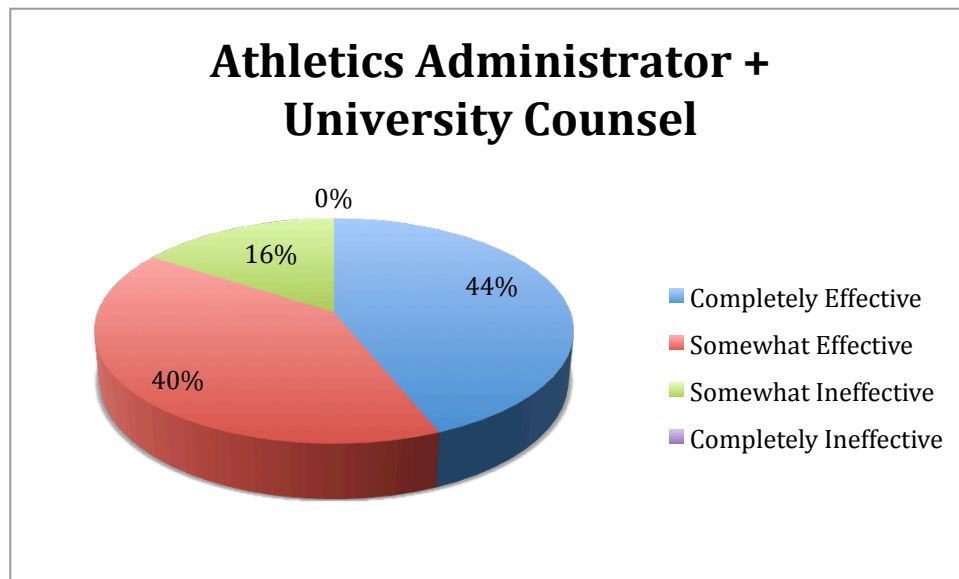
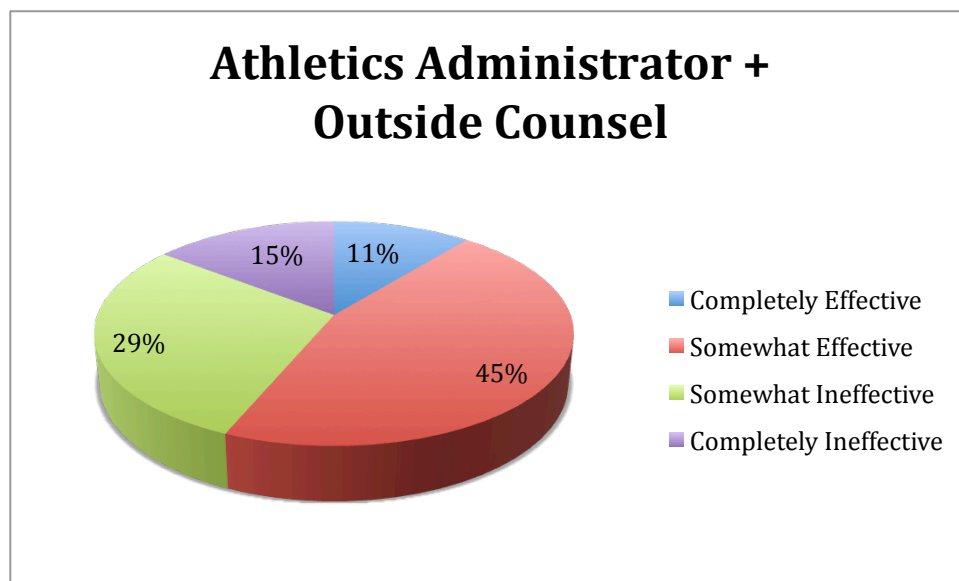


Figure 24. Effectiveness of Using a Combination of Athletics Administrator and Outside Counsel to Oversee Athletics Issues from Athletics Perspective



Turning to the effectiveness of various models from the viewpoint of general counsel offices, for most structure models the most common answer was “somewhat effective” with the exception of “hire outside counsel to deal with legal issues of the athletics department” which received more responses as “somewhat ineffective.” One person responded to the “other” and

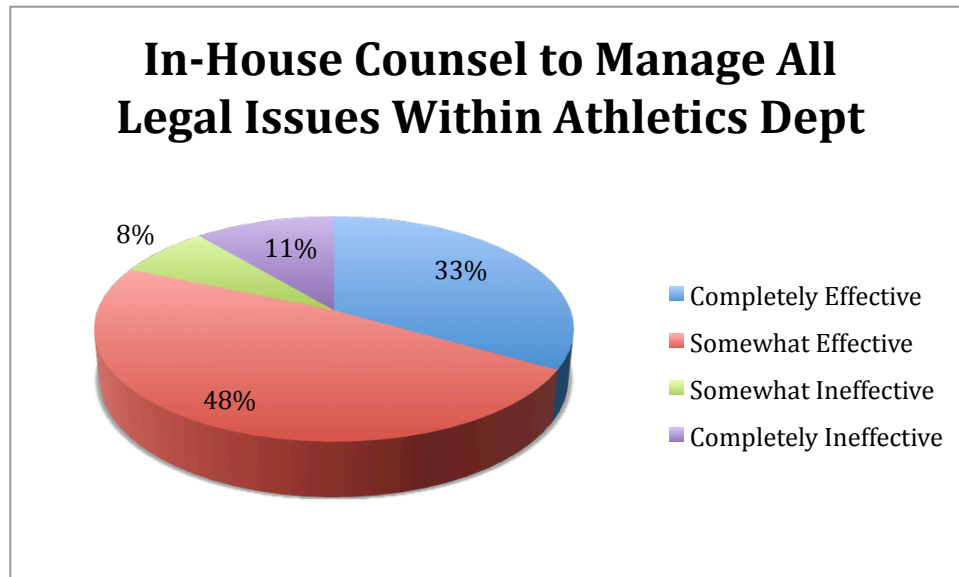
wrote in a response of "Athletics administrator to work closely with in-house counsel to manage legal issues cooperatively." This respondent indicated that he/she believed this would be a completely effective model. The full results for this question are displayed in Table 28.

Table 28. Effectiveness of Various Models as Perceived by General Counsel Offices

Model	Completely effective	Somewhat effective	Somewhat ineffective	Completely ineffective	Total Responses
In-house counsel to manage all legal issues in the athletics department	9	13	2	3	27
Send all legal matters in athletics to university counsel	10	15	1	1	27
Hire outside counsel to deal with legal issues of the athletics department	1	7	11	9	28
Athletics administrator to oversee legal issues and work closely with university counsel	8	15	3	2	28
Athletics administrator to oversee legal issues and work closely with outside counsel	3	8	8	7	26

For the model of having in-house counsel for athletics, most respondents (48.1%, 13 respondents, n=27) identified it as “somewhat effective” while nine respondents (33.3%, n=27) said it was “completely effective”, two respondents (7.4%, n=27) said it was “somewhat ineffective” and three respondents (11.1%, n=27) selected “completely ineffective.” Figure 25 shows these results.

Figure 25. Effectiveness of Athletics In-House Counsel Model from General Counsel Perspective



As would be expected, the model of sending all matters to university counsel received mostly effective responses. Ten respondents (37.0%, n=27) identified this model as being “completely effective” while 15 respondents (55.6%, n=27) said it was “somewhat effective.” A couple respondents perceived it as ineffective with one respondent (3.7%, n=27) choosing “somewhat ineffective” and one respondent (3.7%, n=27) choosing “completely ineffective.” Results of this model are exhibited in Figure 26. The option of using an athletics administrator in combination with university counsel received a large percentage of effective responses with eight respondents (28.6%, n=28) identifying it as “completely effective” and 15 respondents (53.6%, n=28) perceiving it as “somewhat effective.” Three respondents (10.7%, n=28) considered it to be “somewhat ineffective” and two respondents (7.1%, n=28) considered it to be “completely ineffective.” Figure 27 shows these results.

Figure 26. Effectiveness of Sending All Athletics Issues to University Counsel from General Counsel Perspective

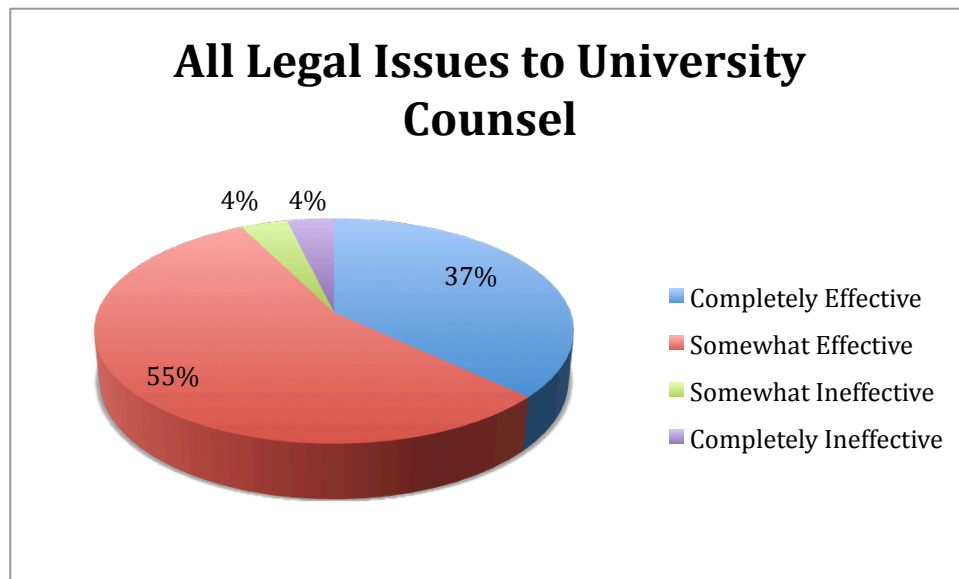
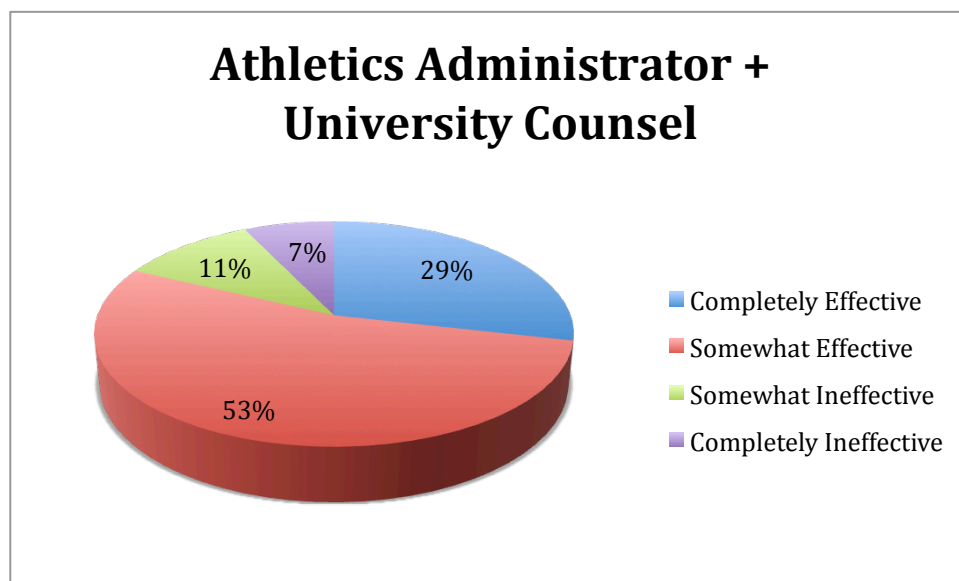


Figure 27. Effectiveness of Using a Combination of Athletics Administrator and University Counsel to Oversee Athletics Issues from General Counsel Perspective



The options involving outside counsel received the most ineffective responses. For the option of sending all matters to outside counsel 11 respondents (39.3%, n=28) indicated it as

being “somewhat ineffective” while nine respondents (32.1%, n=28) said it would be “completely ineffective.” Of the remaining respondents, only one respondent (3.6%, n=28) said solely using outside counsel would be “completely effective” while seven respondents (25%, n=28) perceived it to be “somewhat effective.” In regards to combining outside counsel with an athletics administrator, eight respondents (30.8%, n=26) selected this to be “somewhat ineffective” while seven respondents (26.9%, n=26) identified it to be “completely ineffective.” Of the remaining respondents, three people (11.5%, n=26) perceived this model to be “completely effective” while eight respondents (30.8%, n=26) believed it to be “somewhat effective.” The results for outside counsel options are exhibited in Figures 28 and 29 below.

Figure 28. Effectiveness of Relying on Outside Counsel for All Athletics Matters from General Counsel Perspective

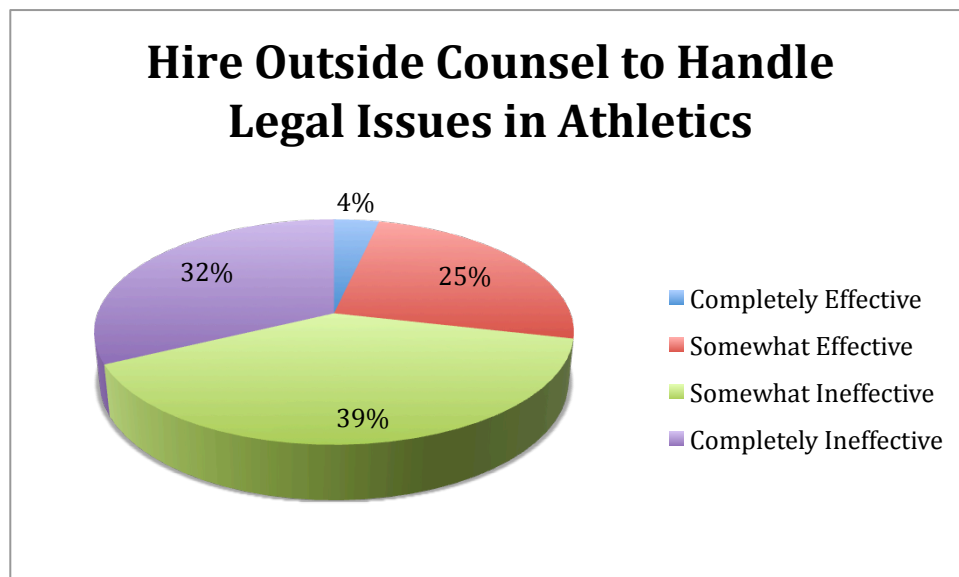
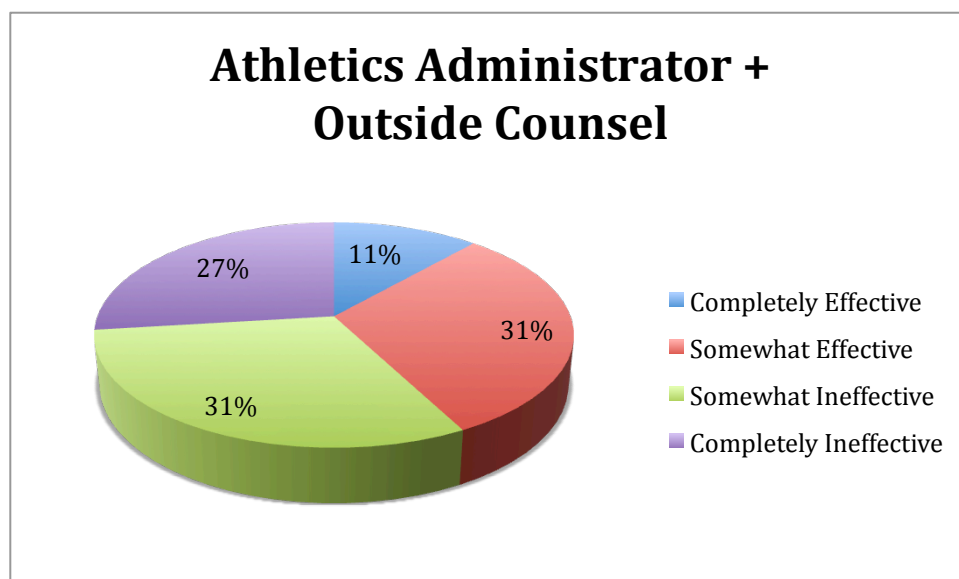


Figure 29. Effectiveness of Using a Combination of Athletics Administrator and Outside Counsel to Oversee Athletics Issues from General Counsel Perspective



Respondents were given an opportunity to follow up on the effectiveness questions by providing any explanation. The explanations from General Counsel offices provided some interesting insight and are displayed in Table 29 below.

Table 29. Explanations of Effectiveness from General Counsel Offices

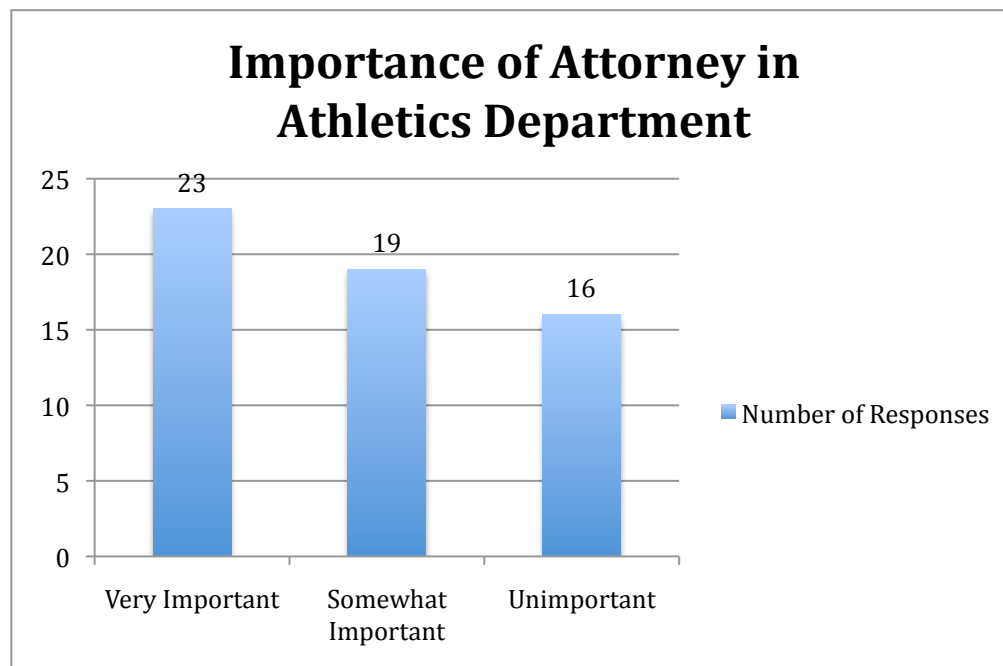
Text Response
We dont have legal counsel inside the department. I see pros and cons to this approach. On the plus side, the more I learn about the day-to-day of the department, the more effective I am (which cuts towards embedding counsel in the department). The cons are that you grow very attached to your client and it could be difficult to report out or stay totally objective if you reported directly to the Athletic Director.
I think there may be times when using outside counsel may be appropriate. I also coordinate with the system counsel on these matters.
Athletics is high risk, University counsel outside of athletics needs direct involvement; outside counsel is for specialty areas.
I believe that handling by University counsel or by outside counsel are the MOST effect, but I don't beleive there is ANY method that is COMPLETELY effective. I think wording is not ap[propriate for the questionnaire.
Models that rely on non-legal administrators to identify issues are less effective. Models that send all athletics matters to the General Counsel can be less effective if the General Counsel's office lacks expertise and time to handle it all. In house counsel specializing in athletics is ideal, but also generally not possible from a budget perspective.
Anything that is structured to exclude some forms from consideration will not be completely

effective.

There has to be a relationship of trust between legal and athletics

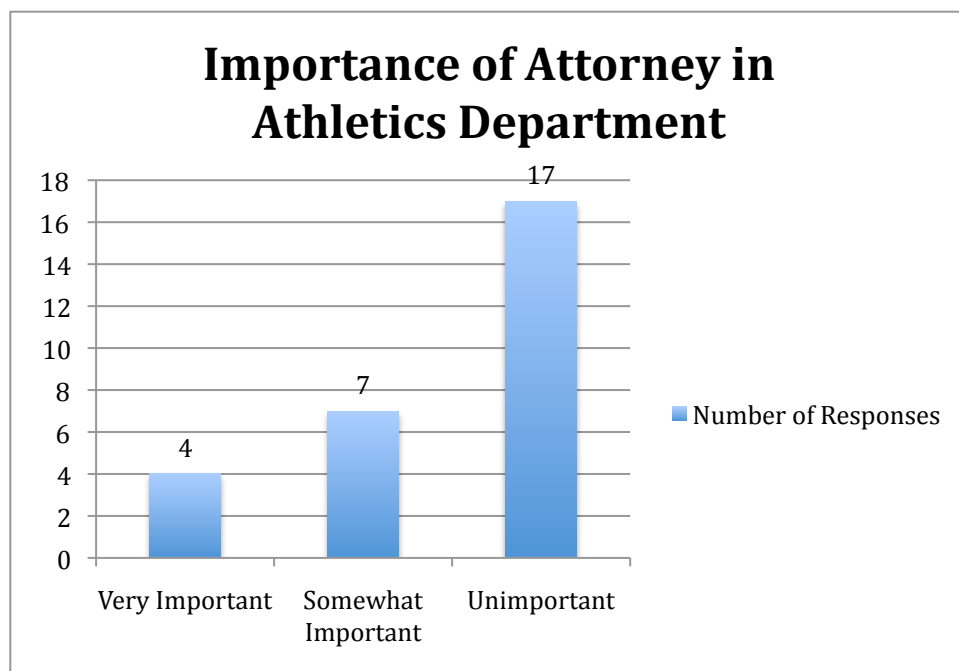
In determining the advantages and disadvantages of various structures for institutions use for legal issues in athletics, respondents were asked specifically about the model of having an attorney housed within the department of athletics by asking them about the importance of such a staff member. In regards to athletics administrators, 23 respondents (40%, n=58) selected the choice of “very important” while 19 respondents (33%, n=58) selected “somewhat important.” With these two combined, a majority indicated that having an attorney on staff in athletics was some level of importance (72.4%, 42 respondents, n=58). There were 16 respondents (28%, n=58) though who said this was unimportant. The results for this question are shown in Figure 30.

Figure 30. Importance of Attorney in Athletics Department from the Athletics Perspective



General counsel respondents had a slightly different view of attorneys in athletics. The majority of respondents (61%, 17 respondents, n=28) indicated it was “unimportant” to have an attorney in the athletics department. Four respondents (14%, n=28) selected “very important”, seven respondents (25%, n=28) selected “somewhat important.” Figure 31 displays the results of general counsel offices.

Figure 31. Importance of Attorney in Athletics Department from the General Counsel Perspective



A final question was asked of all participants to simply provide any additional comments they might like to add to the study about legal issues in their athletics departments and the ways their institutions managed those issues. There were 10 athletics department respondents who chose to provide additional comments. The full list of comments is found in Table 30. There were nine general counsel participants who chose to provide additional comments for this

question. The full list of text responses is provided in Table 31. Many of these responses spoke to the risks and implications of having an in-house attorney within athletics.

Table 30. Additional Comments from Athletics Departments

Text Responses
Our compliance officer has a law degree.
By "attorney on staff," I mean someone who has practiced law, not just who has a JD.
I prefer outside counsel because you can use different attorneys which specialize in the area needed.
Your study needs to take into consideration the size/sophistication of the university/athletic department. Smaller schools simply don't have the budget to hire specialized, in-house athletics counsel. They may have 1 or 2 attorneys that handle all legal issues for the university. The sophistication of what they deal with is different and might not need lots of legal review (ex. they wouldn't have an all-school equipment contract with Nike - they would just have to purchase equipment with a purchase order; they might not have a big sponsorship program involving lots of contracts). Different models work for different schools' situations (budgets, etc.).
be nice to have one if you can afford it
Since we dedicate an attorney to handle athletics legal issues (in addition to other work), it's not necessary to have an attorney on the athletic department's staff.
We have one and I am looking to hire a second. Legal issues can be too important to not have ready counsel available within the department.
I think it's important to have someone on staff with a good grasp of legal knowledge. This person is someone who can look at the matter with the law on their mind and understand how each matter fits into the legal system.
Only unimportant due to current structure of university. We need access, and we have it currently through the university.
Size of program and # of legal issues would determine in house needs

Table 31. Additional Comments from General Counsel Offices

Text Responses
If an attorney is located within the athletics department, that individual must report to the General Counsel
I am not sure an institution needs an attorney on staff in the athletics department; an institution certainly needs individuals with good knowledge of the rules, regulations, and laws that govern athletic department activities
In my the physical presence of a university attorney in the Athletics Department may be helpful at times but not necessary.
I think having solely in-house counsel within an athletic department runs the risk of isolating the department from larger legal risks and strategies that affect the entire university. University counsel are aware of all of the other risks facing the university, as well as the university's approach to those risks in other areas, and can therefore provide a broader and more consistent approach in the interest of the entire university, not just one department.
embedding atty in athletics won't work - cool aid is readily available and will be sampled then guzzled.
We have had discussions on having an attorney in athletics. If we were to have an attorney in athletics, s/he would report to the University General Counsel, not the Director of Athletics. It would be beneficial with basic contracts, initial draft of contracts (employment, multimedia, facilities, etc.). It would also be beneficial in the IP (use of trademarks area). It would also be beneficial in compliance area.
I think it is a huge mistake to embed an attorney in the Athletics Department. Legal advice should come from outside the department to ensure that the values and needs of the entire university are taken into account at all times. I would not agree to allow an attorney to work within Athletics.
The issue is resources. There is not sufficient work to justify the expenditure necessary for athletic to have full time counsel.
It is important to have an attorney or attorneys working closely with athletics, but the attorney need not be on the staff of athletics. Having an attorney "on the staff" of a department can lead to a captured attorney and limit the attorney's range of motion.

Chapter 5
DISCUSSION
Summary

This study set out to determine which legal issues Division I athletics departments encounter and the frequency with which they encounter those issues. Furthermore it looked to examine the ways Division I athletics departments and their institutions manage those issues. All the Division I schools were surveyed in an attempt to gain a broad picture of the landscape of legal issues in the division and a collective understanding of how similar or different departments and institutions are choosing to manage those issues. In researching what the landscape looks like the study also sought to uncover the advantages and disadvantages to the various structures institutions implemented to handle the legal work. The research does in fact provide a better understanding of the legal field and management of that field for Division I college athletics. The individuals managing the legal issues were the ones asked to provide responses as they could provide the clearest picture of what goes on in departments and the institutions. Due to surveying two different populations and using surveys with a significant number of questions, the results of the study provide a large amount of information. Division I college athletics departments deal with a wide array of legal matters which occur in varying degrees. The frequency of the various issues will be further discussed below. In terms of who handles the legal issues when they arise, in general the results seem to show that legal issues in athletics are

typically handled by university counsel offices to some degree. This seems to highlight the importance of university counsel to athletics and thus the importance of athletics administrators developing a strong relationship with the attorneys in the office of university counsel. The commonality of this structure exhibits that there are certainly advantages to this model. University counsel represents the institution and with athletics being one department within the larger institution it seems natural for the legal matters of athletics to run through that office as well. At the same time however, some disadvantages naturally arise from a situation where one office is handling legal issues for the entire university when athletics has so many issues that need attention. Some of the results seem to highlight the disadvantage of the time constraints on university counsel offices. However, the low participation rate, particularly for Survey Two, which surveyed General Counsels, may hinder the broader applicability to all Division I.

Some of the first few questions on Survey One (and Survey Two for that matter) looked to gather information on the respondent themselves. The purpose was to determine who was the individual in the department that was most knowledgeable about the legal issues and how much experience these individuals have. Overall most of the respondents listed themselves as Directors of Athletics, which means the person in charge of the department is commonly involved in the legal matters. This is certainly a good thing for the administration of athletics departments. When the survey was emailed to the Athletics Directors they were asked to participate or to forward it to the individual in their department who most commonly handled legal matters. With the majority of respondents being the athletics directors themselves one might infer that the athletics directors are staying involved in the legal matters.

One particularly interesting finding was the 10% (7 respondents, n=71) that indicated they are In-house/General Counsel for Athletics. Having 10% In-house counsel would translate to 34 athletics administrators in Division I that act as In-house counsel for athletics. This would certainly be a new trend for athletics departments as this is not a typical title within departments. It is even more interesting that 10% of respondents from Survey One consider themselves “In-house counsel” and yet the “attorney in athletics” option as a single source was only selected 2.6% of the time when administrators were asked who handles legal matters. In combination with other choices though in-house was selected for 19.5% of responses, thus used more often when in consultation with others. Furthermore, when this statistic is compared to a later finding that 30% of athletics administrators indicated they have a law degree, the 10% seems low. This translates into only one-third of those in athletics with a J.D. acting as in-house counsel for the department. This may speak to the hesitancy of institutions to allow for athletics to have their own acting attorney. A final point to make in regards to this title is that some administrators may hold a position that overlaps in athletics and general counsel. As described in Chapter 2, Ohio State has an attorney that holds a title in both departments. Given that athletics directors were asked to forward the survey to the individual in the department who most commonly deals with legal matters this could have likely been sent to the individuals in general counsel who deal with the athletics issues. Regardless of the reason for it, there being 10% of respondents identified as “in-house/general counsel for athletics” is an interesting demographic.

In regards to experience of the respondents involved in the legal matters there seemed to be a large discrepancy. The same number of respondents had been in their

athletics department for 1-5 years as had been in their department for over 10 years, each experience level having 24 respondents. This may speak to the fact experience does not necessarily equate to job responsibilities or familiarity with certain issues. From a broad perspective this seems to address the fact that all levels of experience need to become familiar with the law involved in college athletics. It may also allude to the possibility that an awareness of legal knowledge is becoming more important as those with fewer years of experience are the individuals responding to this survey while at the same time showing those with the legal knowledge in the “more than 10 years” category have been around long enough to develop the knowledge and may be exiting the field soon thus there will be a need for more legally educated individuals in athletics.

Question 5 on Survey One for athletics directors specifically asked whether the respondents had a law degree. This was in order to determine whether they had a legal education and the knowledge of an attorney. In the landscape of college athletics today there seems to be an increasing number of athletics administrators with law degrees. Tharrington (2008) researched this in her study that is discussed in Chapter 2 and will be compared to the overall results of this study below. In this study alone however, the results show that the overwhelming majority of the individuals handling legal issues in athletics departments do not have a law degree, as 70% of respondents said “no.” This in turn means that the majority of respondents to this survey who manage the legal matters of the department do not have the educational background provided by law school, which is not to say they do not have the knowledge needed but simply that they do not the training that law school provides.

A profile of the institutions participating in the survey was also sought through the survey. From the athletics department side of the study based on Question 3 of Survey One, the majority of schools participating were public schools. The largest number of participants was from mid-size departments with 401-600 student-athletes with 39.4% of schools. The larger departments, those with more than 600 student-athletes, accounted for 29% of the participants combined. Therefore overall the profile of a majority of the participants' institutions is a public mid-to-large size (based on number of student-athletes) athletics department. With the size of the athletics departments of many respondents being 401-600 student-athletes this may have affected the frequency of certain legal issues, causing some to be higher and some to be lower. Fewer student-athletes would mean fewer opportunities to have to deal with torts involving them, personal matters of the student-athletes, compliance issues, and so forth. It could also mean that some of these institutions have more time to devote to some matters that departments with 600+ student-athletes do not have.

Research Question 1

This question can be answered based only on the respondents who participated. The overall response rate of 23.2% for departments of athletics and 10.5% for general counsel offices does not warrant that, these results are generalizable to all of Division I. One of the most interesting points to the responses of this question was the few number of "Never" responses overall. This indicates that almost all departments that participated must deal with the legal issues addressed to some extent. Since a set list of legal issues were provided for respondents this may have led to them trying to provide a value for the issue assuming they must encounter it at some point. This is especially true since

“occasionally” was an option and some respondents may have considered that to be a response that covers any exposure to the issue. Assuming though that the responses provided are accurate as to encounters with the issues, the “never” responses can show us which issues departments may not encounter and if they do, it is likely to a lesser extent than others. Based on the responses given, of the legal issues asked about, almost all departments face these issues at least occasionally. For all issues, the majority responded that they face it to some degree, meaning the “Daily”, “Weekly”, “Monthly”, “Yearly”, and “Occasionally” responses accounted for a larger percentage of the population than “Never.” The legal areas of Torts against visitors to campus, Intellectual property, Torts against student-athletes, and Personal matters for student-athletes and employees received the most “Never” responses, which exhibits that for these departments these issues are the least likely to be faced. While some issues definitely seemed to be faced more than others, over all it appears that most departments are dealing with the wide variety of legal issues presented in the survey.

From the General Counsel offices perspective, only three legal issues received “Never” responses more than 20% of the time—Personal matters for student-athlete and employees, Tax, and Gifts/Development. Most issues had at least one participant select “Never” though, as only Contract negotiation, Contract drafting, and Risk management had zero responses in the “Never” category. This shows that in the view of general counsel offices some of these issues may be faced less prevalently by athletics. The discrepancy between the two groups may be a result of the participating institutions for each survey but it also may be due to the nature of the populations. These issues are directly a part of the athletics departments and administrators are probably more aware of the frequency of

them, while general counsel offices must manage the legal issues of the entire institution and therefore may not spend as much time on athletics issues. Athletics administrators may also be handling these matters internally without consulting general counsel, therefore the general counsel's office would not likely be aware of all of these issues. Once again, however, for all issues asked about in the survey the overwhelming majority indicated that athletics faces it to some degree whether it be "Daily", "Weekly", "Monthly", "Yearly", or "Occasionally."

Research Question 2

Respondents were asked a question directed at one of the main purposes of this study, which is determining which legal issues college athletics face most often. For athletics directors, NCAA and other compliance matters received the most "Daily" and "Weekly" responses combined of any legal area, therefore one could infer this is the issue most frequently faced by athletics. Employment issues was the second highest for percentage of responses falling into "Daily" or "Weekly." Based on the percentages it seems these two issues are the issues most frequently handled on a regular basis. Beyond these two, contract negotiation and contract drafting as well as public records receive a relatively high percentage of "Daily" or "Weekly" responses.

Given that the general counsel offices handle the legal matters for the entire university it seems logical that these participants would not encounter the athletics matters as frequently and thus would select "daily" less often. This was in fact the case as "daily" was only selected a minimal number of times overall. NCAA and other compliance matters had the most "daily" choices for general counsel respondents as well, but only four respondents indicate they encounter it "daily." For many issues the respondents indicated

they encounter it “monthly” or “occasionally”, which likely goes to the point that these offices have so many matters to handle that the athletics matters are not constantly given attention. Many issues had at least one respondent (or more) indicate they “never” encounter these in the athletics context. The only issues that did not have any respondents select “never” were contract negotiations, contract drafting, employment issues and risk management. For this set of respondents, these issues could be considered definite issues the offices handle for athletics, while all other issues may never come across the desk of some general counsel offices.

One important factor to consider in analyzing which legal issues occur most often is the fact that the nature of some issues cause them to naturally fall into the categories of being less frequently handled. While this may be true, some of those issues that would be of this type still received a noticeable number of “Daily” and “Weekly” responses. Contracts for instance are typically at least for a one-year term and often are in place for multiple years, so contract drafting and negotiation does not occur frequently for one contract. Still yet some respondents selected “Daily” and “Weekly” for these areas which may speak to the large number of contracts involved in college athletics from employment contracts to vendor contracts to game contracts to media contracts and therefore those involved in the process are dealing with contracts on a much more frequent basis. Another area that may naturally fit into a certain frequency is athletic/coaches camps. These often occur during the summer or are run year-to-year and therefore may only be handled once per year. Every situation is different though and various issues involved in camp may arise throughout the year causing administrators to pay attention to this area at different times.

A large number of respondents indicated in fact that they encounter camp issues “Yearly” or “Occasionally.”

“Occasional” responses create a difficult factor to analyze. The issues with a large number of “occasionally” responses are likely to be ones that departments are less likely to have to deal with from a management perspective. Issues with a large number of “occasionally” responses include torts involving student-athletes or employees, torts involving visitors to campus, intellectual property, tax issues, criminal charges against student-athletes or employees, personal matters for student-athletes or employees, gender and racial equity, and FERPA. Depending on individual respondents’ definition of “occasionally”, however, the inferences of how frequently many of the legal issues occur in athletics departments could be altered.

Research Question 3

Questions 7, 8 and 9 of Survey One provide a broad look at whether athletics department respondents are dealing with legal issues to begin with and the amount of time they consult with attorneys on these issues. These questions were meant to provide a basic understanding of whether individuals in athletics were dealing with legal matters in general and whether and/or how often they relied on an attorney for consultation on these matters in general. With 90% of respondents saying “yes” to whether they assist with legal issues it seems the sample brings experience in the area being studied and thus are the correct respondents. It further shows that athletics administrators are participating in addressing legal issues in their departments. Beyond their own involvement though, these administrators also appear to be consulting with attorneys on these matters, even if only for a limited amount of time. Fifty-four respondents indicated that they consult with an

attorney 1-5 hours in a typical week, which may seem small at first, but to think of all the other issues these administrators must handle this seems like a legitimate amount of time to seek out the advice of an attorney. This may again go to show the importance of these issues and the need to ensure the legal matters are taken care of promptly and correctly. Furthermore it can show that in sum the legal issues are arising frequently enough to require these administrators to spend time each week consulting with a lawyer. Beyond this the fact attorneys are involved in the process speaks to the structure utilized by most of the participants' departments. A later discussion on the various models asked in a different question will speak directly to this, but with 90% of respondents indicating that they consult with an attorney on these matters it would be fair to say that an attorney of some sort is typically involved in the process.

The surveys also asked respondents to provide information on other departments that may be involved in the management of legal issues, which are not directly a part of the legal offices. One way of doing this was simply asking whether and what other positions/departments were consulted. With a majority (81%) indicating that they consult with others it is necessary to address who/what departments these administrators are seeking out for help on legal matters. Many athletics administrators affirmed that they consult with university counsel. Most did not provide further explanation, but the question asked who was consulted other than the attorneys. Still yet, university counsel was a popular answer, which likely shows the importance of that office to athletics matters at most institutions. A few individuals included "University compliance office" as part of their response. While the full discussion of compliance officers is beyond the scope of this study, it is interesting to point out that this was mentioned. Some schools are beginning to have a

compliance office for the university rather than just individualized compliance departments such as those in athletics. One individual answered with the following, “other similarly situated institutions or athletic departments” which is a great idea. Departments and institutions often compare themselves to other schools and likely seek advice from other schools. Consulting other schools on the way they manage certain legal issues may allow for the betterment of Division I college athletics as a whole. That only one person included this in their response though may show that competition between schools in athletics is of greater importance and thus departments are unwilling to disclose problems.

The purpose of Question 14 on Survey One was to determine the people/positions athletics departments use to manage their legal issues. As shown in the results, an overwhelming majority of respondents included “university counsel” in their response whether that was solo or in combination with other choices. As discussed in Chapter 2, the role of university counsel is to represent the university and therefore it is important for them to be involved in the legal issues of athletics. The most common response overall was “university counsel” alone. While university counsel should be involved it may be surprising to some that it by itself accounted for the most responses.

For the issue most frequently faced as determined by Question 12, NCAA and other compliance matters, athletic administrators selected non-attorney athletics administrator most often. Of the 61 responses to this question, 17 of them were “non attorney athletics administrator” alone. Unlike the overall most common response of “university counsel”, for this particular issue “university counsel” was only selected five times as a solo choice. This makes sense for the particular legal issue. NCAA rules are of a totally different nature than laws addressed in the other areas, therefore a different realm of knowledge is needed.

On that note, a different person or department may be needed to handle these matters as opposed to other issues. On the other hand a more typical law issue like tort matters received a large number of responses of “university counsel” only. For instance torts involving student-athletes or employees had 30 of the 57 responses reply with “university counsel” as a solo answer and torts involving visitors had 34 of the 57 responses for the same.

A combination of the choices provided was selected by most respondents, although no particular combination was the most common response. While “university counsel” was selected most often in comparison to individual combinations, when combinations are totaled together they exceed this individual response. A few of those combinations are particularly interesting and produced a larger number of responses than others, but the other take away is simply that a combination of people is used in the process by most departments. No one individual/position/department handles all legal issues for athletics at most departments. The majority utilizes multiple resources to manage the legal issues faced. With such a wide variety of legal issues and with so many other things going on in an athletics department it seems only logical to use a combination.

From the numerous combinations that could be selected based on the choices given, one of the most common combination choices was “non-attorney athletics administrator” and “university counsel.” This selection was made 144 times of the 955 responses, or 15.1% of the time. While 15.1% may not seem like a high percentage, in this situation with the large number of combinations that could be made this is quite high. This seems like an ideal way for departments to manage legal issues, having an administrator in the department to handle issues on the front end and then utilizing university counsel as well.

Given that there were so few respondents who had a law degree it seems only natural that the “non-attorney athletics administrator” choice would be part of the most common combination. This is likely in part a result of the few number of athletics administrators across Division I who are attorneys, because if departments have administrators who are attorneys one might assume these individuals would be involved in managing the legal issues. Furthermore though, this combination was selected so often it shows that athletics departments do in fact use staff for legal matters and thus might benefit from employing a staff member with the legal background to apply to these issues. Following up on this point, fewer respondents chose “attorney in athletics”, whether solo or in combination with others, than the other choices of “university counsel” and “non-attorney athletics administrator” which likely shows that a minimal number of departments have an attorney on their staff.

One of the most obvious takeaways from general counsel responses to who deals with legal matters for athletics was that only one respondent for one issue selected “attorney in athletics department.” This shows that of the general counsel offices at these institutions they do not believe attorneys in the departments are managing the legal issues. This may mean that the athletics departments at these institutions do not have attorneys on staff or it may speak to the structure at these schools and general counsel offices simply not viewing in-house counsel as a viable legal management option.

The most common response was “university counsel” just as it was amongst athletics administrators in Survey One. For Survey Two, 325 of the 455 respondents included “university counsel” in their response to some degree whether it was solo or in combination with others, which provides strong evidence that university counsel is often

used in the process. This seems like a very obvious response as these participants are the university counsel and thus are aware of their involvement. More importantly though may be the number that responded with a combination of responses. Over half of those “university counsel” responses were in combination with other choices, thus showing that general counsel offices see the value of working with others in managing these legal issues. The university counsels likely know they are not as familiar with all the details of various legal matters in athletics and thus need the assistance of administrators in the department or outside counsel who may specialize in more of these issues. University counsel offices, especially those at the sizes of the institutions represented in this study, do not have the attorney capacity to become experts in the specifics of all areas of the university or to devote the extensive time some areas may require. Relying on other positions and departments to assist and even lead the management process for some issues seems like the most logical approach. For instance, on diversity issues it seems only logical, and likely necessary depending on policies and processes of the university, to consult with the Equal Employment Opportunity Officer or Title IX Coordinator for the institution.

Research Question 4

The advantages and disadvantages of the structures were addressed through a series of questions on positive and negative characteristics as well as the effectiveness of certain models. Many of the respondents from both populations considered the communication and collaboration between the department of athletics and university counsel office to be one of the best features of their structures. This is reassuring to many to know that this teamwork is occurring at many institutions to ensure legal issues are handled properly. One response exhibiting this view from an athletics director stated the

following, "Strong communication and cooperation; outside reporting line if necessary; excellent attorneys." Another response from general counsel said, "We have regular and effective communication between the GC and the AD as both serve on the President's Executive Council." Another positive feature that both athletics and general counsel seemed to agree on is the knowledge of those involved, especially the attorneys in university counsel which is shown in this comment, "Legal counsel has more experience and better able to work through issues." Respondents also indicated through several comments that the structure was advantageous because it allowed for them to interact and uphold the values of the institutions. One athletics respondent stated, "It demonstrates institutional involvement in decisions that relate to the Department of Athletics" and a general counsel said, "I have objectivity and represent the interests of the institution. I also work with Athletics enough to know the key personnel well and I am able to get up to speed quickly." This final comment brought out yet another advantage of some of the structures in place, mainly those utilizing university counsel. The general counsel office can bring an objective approach to athletics issues as opposed to attorneys housed within athletics. However, from another viewpoint one may argue that outside counsel brings a more objective approach as university counsel is still connected to athletics as a part of the university.

As for negative characteristics, the responses were much fewer than the advantages. Many respondents from athletics said there were no negative characteristics. This provides interesting information in itself. On the one hand this may show that the administrators involved in the legal issues are satisfied with the structures and believe they are working well. It also may show though that those involved do not have enough

invested in the model or enough time to want to restructure it. The respondents also may just be unaware of the other possibilities for managing the legal issues in athletics and thus do not believe there to be any other way to do it.

Despite the numerous “none” responses a few respondents from both populations provided negative characteristics. Many of these responses spoke to the busy schedules of those involved. One athletics administrator provided the following response, “Sometimes the timeliness of response to matters such as contracts is slower than we would like.” The general counsel respondents also addressed the challenges of their schedules. One general counsel respondent said, “Some of these matters are time-consuming and cannot be addressed as quickly as constituents would like.” This reason likely links to another negative characteristic as described in this comment, “The effectiveness of the process depends on the administrators' making the time to keep legal in the loop.” Several general counsels made similar comments that athletics do not use general counsel enough, but given the comments by athletics administrators about busy schedules and the comment by the general counsel about not addressing issues as quickly as some would like, this may be the reason for the failure to consult them enough. Athletics may want to take care of things quicker than university counsel can get to the issue so they make decisions themselves as evidenced in the comment about contracts above. This of course can lead to some poor decisions or at least decisions that are not as legally cognizant as they should be. For those that can afford it, this may be a reason to have an attorney either in-house or in general counsel, that is solely dedicated to athletics legal matters.

Aside from the common disadvantages pointed out there were a few interesting comments that stood out. One of these comments came from a respondent in a general

counsel office and was this, “Tickets to games are like GOLD; possibility to attorneys wanting tickets can submit to pressures to keep friends in athletics who may be able to get tickets.” This makes a good point about the potentials for conflicts of interest or the temptation for attorneys to make unethical decisions in the way of the perks that can come from athletics. College athletics have grown tremendously and the “big-time” nature of college sports is outside the scope of this study, however, many people love college athletics and attorneys are sports fans too. The lure of tickets or even the desire to keep the athletics department out of trouble may lead to attorneys assisting in cover-ups. One would hope this would not occur as attorneys are held to a professional code of conduct (i.e. *Model Rules of Professional Conduct*), but since a general counsel respondent made a comment about the matter it is worth considering.

Discussion of Relationships Between Populations

The difference in responses for athletics administrators and general counsels on the frequency of issues was interesting. One would expect that responses would not be identical, but it also would be expected that both populations would at least have similar frequencies for issues. Since a majority of respondents indicated that university counsel assist on legal matters to some extent, it certainly seems the frequency would be more similar between the two. However, as previously discussed, the general counsel offices are handling issues across the entire university, therefore they would be unable to address the issues as often as athletics alone can.

Both groups seemed to have the same approach to outside counsel. For the most part it seemed that those involved in legal matters, both athletics administrators and general counsel attorneys, preferred to not use outside counsel. Both sides seemed to use

outside attorneys for certain NCAA issues and investigations, but overall outside counsel was not sought often. This is somewhat surprising given the ability for outside attorneys to provide an objective perspective and the fact university counsel is so busy and athletics requires so much attention. On the other hand, the cost for outside attorneys is quite high and institutions probably see no reason to pay for attorneys when university counsel represents the interest of the department already. Furthermore, it is always important to keep athletics, especially at big Division I schools, in line with the mission of the university and maintain institutional control. Using outside counsel often for athletics may give the perception that athletics are more important or a separate entity.

In analyzing the combined results of the two surveys and examining the vast amount of information gathered, it seems that for the most part the two populations gave fairly similar responses. Going no further than this basic premise that responses were similar can speak to the prevalence of legal issues and the ways departments are managing those issues. For the schools that chose to participate it appears that many deal with the same issues in athletics and the number of issues is large. The schools seem to utilize university counsel a great deal, but beyond that the schools use a wide variety of structures to manage the various issues faced.

Comparisons to Previous Studies

Chapter 2 discussed a study performed by Tharrington in 2008, which estimated that 162 athletics administrators had a juris doctor degree. With this in mind, the results of the study presented here are somewhat surprising when looking at the respondents to Survey One who indicated they have a juris doctor. In this study, 70% of respondents indicated they do not have a juris doctor degree thus leaving 30% with a J.D., where as in

Tharrington's study approximately 45% of respondents had a J.D.. It is most surprising that this percentage has decreased. Since 2008, the legal issues in college athletics have only increased, law graduates have increased as well along with the number of programs at graduate and law schools that offer sport law classes. One would think this number would have increased, however Tharrington had a higher response rate which may have allowed her to get a better depiction of the landscape. On that note, however, Tharrington studied all employees in the department with a J.D. degree, not just individuals assisting with legal issues. Some administrators in other areas of the department and even some coaches may have a J.D. degree and just entered a career where they are not directly using that degree. This would allow for a greater number of individuals that fall into the category sought by Tharrington, whereas this study only looked at individuals actually assisting with legal matters.

The issues that were most commonly encountered by administrators with a juris doctor degree from Tharrington's study were similar to those most frequently encountered by respondents in this study, particularly the athletics administrators. NCAA compliance matters were at the top of the list in both studies. Other similar issues included contract drafting and negotiation. This study differed from the Tharrington results in regards to gender and racial diversity matters. These issues were reported as common issues in 2008, but in the current study respondents most commonly indicated that they only "occasionally" encounter this issue.

Another point of difference was the amount of interaction reported between athletics administrators and university counsel. In the 2008 study it was reported that the two departments rarely interacted. As the results section above show, both athletics

administrators and general counsel offices most commonly reported that they interact weekly, therefore they interact much more often than the “rarely” that was reported by the study conducted by Tharrington (2008). However, Tharrington (2008) also reported that 70% of legal issues for the athletics departments were referred to general counsel. This is much more similar to the results found here in which athletics administrators included university counsel in 67% of their responses indicating who handles legal issues.

The study conducted by Lea and Loughman in 1993 that was discussed in Chapter 2 also provides some interesting comparisons. This study looked at the source of legal services for athletics departments and reported that departments rely on a single source 59.4% of the time; in the current study university counsel as the single source was the most common response overall and these respondents also selected it as a single source most often. In the current study athletics administrators indicated they rely on a single source 55.4% of the time. General counsel offices indicated that a single source is relied on 56.6% of the time and they too selected university counsel as the most common source of all single sources (or combinations).

Lea and Loughman (1993) proposed a model for athletics departments to manage legal issues in which departments would have an attorney housed in athletics but would have to seek approval from the president/chancellor’s office before taking action. This exact structure was not asked about in Survey One and Survey Two of the current study, but a similar option of having an athletics administrator to oversee the legal matters and consult with university counsel was included. For both athletics administrators and general counsel offices the majority of respondents identified this model as either “completely effective” or “somewhat effective.” Also included in the surveys was model of

solely in-house counsel to manage the legal issues. The athletics administrators overwhelmingly indicated that this would be effective to some degree with 83% selecting “completely effective” or “somewhat effective” while 81% of general counsel offices indicated this would be effective. Still yet, despite the model being suggested in 1993 and the majority of respondents identifying in-house counsel as an effective model, the results of the current study show that in-house counsel is not frequently used to handle legal matters in athletics, especially in comparison to university counsel.

Limitations

As mentioned earlier, one of the biggest limitations of this study is the low response rate. There was a decent response rate from athletics administrators with 23.2% responding, however less than half as many responses were gathered from general counsel offices. The low number of responses limits the study from being able to make broad implications for all Division I athletics. At the same time, the low response rate can shed light on the busy schedules of those contacted. Quite a few emails to both populations were automatically responded to with notes that the individual was out of town for affairs or had various meetings scheduled. With the way both populations were contacted it cannot be determined how many actually received the email. The emails were gathered from the school websites therefore some email addresses were the generic email for the position and some may not carefully check those as regularly as personal emails. Overall though, this limitation shows information in itself as those managing departments and the legal landscape of the university, and athletics in particular, are extremely busy.

Another limitation that may have affected the results is that the study itself was on legal issues. The email and subject line contained phrases and requests regarding legal

matters and the words “law” or “legal” which may at times send people running the other direction. Some people may have disregarded the email or decided not to respond due to the legal nature of the study. They may have felt this was sensitive information they did not want to convey. Others may have agreed to respond but limited their participation and the thoroughness of their response. Most people do not feel comfortable discussing legal matters especially in regards to an area so media-focused like college athletics, therefore this may have limited both the number of participants and the breadth of the study.

Future Studies

There are many future studies that could branch from this study. To begin with, the survey could be re-opened and additional responses solicited. A greater response rate would allow for more imputation of results to the broad landscape of Division I. The goal for this study was at least 100 responses for both populations. While the athletics population came close, the general counsel respondents were well below. It would be interesting to see how results would change (or stay the same) with more schools involved. One possibility would be to get the endorsement of NACUA or to conduct the study through that organization. This may encourage the attorneys in general counsel offices to participate. An attempt was made to get an endorsement from a past president of NACUA for this study, but their schedule did not allow for them to assist in a timely manner.

Another future study would be to expand to Division II and Division III. Given that these departments and institutions themselves are typically smaller than Division I athletics/institutions it would be interesting to compare the way they deal with legal issues. With fewer employees and fewer resources these schools may structure things

quite differently. The legal issues encountered may also be fewer due to less commercialization and so forth as compared to Division I.

It may also be interesting to narrow the study and perform a case study on a few Division I institutions. Some of the explanations and structures that were described by respondents were intriguing and a further discussion could provide valuable information on the pros and cons of the way they manage the legal issues. While departments are all organized differently, legal issues are something that need structure, lines of communication and an understanding of what and who does what. An in-depth look at models some universities have developed could provide a clearer picture of the best ways to structure the management of legal issues in athletics.

After looking closely at the study conducted by Tharrington (2008) combined with the research done in this study the two lend themselves to a future study on the Juris Doctors in athletics who identify themselves as “in-house counsel” or a similar title. As mentioned above, Tharrington’s study showed a greater number of J.D.s in departments than the current study and furthermore, this study showed only 10% of respondents considered themselves in-house counsel for the department. A future study may look at the other roles J.D.s are serving in athletics. One might consider what skills, knowledge and so forth are transferable even without serving in an attorney role. This also may lead to looking at the value of the dual degree and whether those not acting as an attorney value it as much. Along with this one may specifically research the 10% that identified as “in-house counsel” and determine what role(s) they play in the full scope of athletics administration.

A final future study to mention (although there are many others) is a study to look at the ways departments manage the issues compared to the number of cases brought against

them or compliance violations committed. This could provide even further support for certain structures. One of the main motivations behind this study was to see if departments were effectively and efficiently dealing with legal issues, which in turn could prevent them from facing allegations, litigation, and complaints. If a correlation could be found between certain models for managing legal issues and a decrease/increase in legal complaints that arise, then findings could be more directly applied.

Conclusions

College athletics, just as any other business, must deal with legal issues. Given the governance structure for college athletics and the abundance of rules in place, NCAA and other compliance matters tops the list for most Division I departments for the issue they most commonly face. Overall, departments face a wide variety of legal matters to varying degrees of frequency. With such a wide variety of both topics and occurrences it is important that institutions have a structure in place to manage them effectively. Across Division I, university counsel is used more than any other legal source. It is most commonly relied on as a single source, but it is not uncommon for other sources to be involved in the management process, especially non-attorney athletics administrators. In general, though, schools seem to be aware of the legal landscape of their athletics department and are at least attempting to make efforts to manage the matters. Many of those involved seem to agree that it would be beneficial to have administrators in athletics (whether that be an attorney or otherwise) and university counsel work more closely together.

APPENDIX A
NCAA DIVISION I COLLEGES AND UNIVERSITIES

University of Akron	University of California, Los Angeles
Alabama A&M University	University of California, Riverside
Alabama State University	University of California, Santa Barbara
University of Alabama at Birmingham	Campbell University
University of Alabama, Tuscaloosa	Canisius College
University at Albany, SUNY	Central Connecticut State University
Alcorn State University	University of Central Arkansas
American University	University of Central Florida
Appalachian State University	Central Michigan University
University of Arizona	College of Charleston (South Carolina)
Arizona State University	Charleston Southern University
Arkansas State University	Chicago State University
University of Arkansas, Fayetteville	University of Cincinnati
University of Arkansas, Little Rock	The Citadel
University of Arkansas, Pine Bluff	Clemson University
Auburn University	Cleveland State University
Austin Peay State University	Coastal Carolina University
Ball State University	Colgate University
Baylor University	University of Colorado, Boulder
Belmont University	Colorado State University
Bethune-Cookman University	Columbia University
SUNY at Binghamton	University of Connecticut
Boise State University	Coppin State University
Boston College	Cornell University
Boston University	Creighton University
Bowling Green State University	Dartmouth College
Bradley University	Davidson College
Brigham Young University	University of Dayton
Brown University	University of Delaware
Bryant University	Delaware State University
Bucknell University	University of Denver
University at Buffalo, SUNY	DePaul University
Butler University	University of Detroit Mercy
California Polytechnic State University	Drake University
California State University, Bakersfield	Drexel University
California State University, Fresno	Duke University
California State University, Fullerton	Duquesne University
California State University, Long Beach	East Carolina University
California State University, Northridge	East Tennessee State University
California State University, Sacramento	Eastern Illinois University
University of California, Berkeley	Eastern Kentucky University
University of California, Davis	Eastern Michigan University
University of California, Irvine	Eastern Washington University

Elon University
University of Evansville
Fairfield University
Fairleigh Dickinson University
University of Florida
Florida A&M University
Florida Atlantic University
Florida International University
Florida State University
Fordham University
Furman University
Gardner-Webb University
George Mason University
George Washington University
Georgetown University
University of Georgia
Georgia Institute of Technology
Georgia Southern University
Georgia State University
Gonzaga University
Grambling State University
Hampton University
University of Hartford
Harvard University
University of Hawaii, Manoa
High Point University
Hofstra University
College of the Holy Cross
University of Houston
Howard University
University of Idaho
Idaho State University
Illinois State University
University of Illinois, Champaign
University of Illinois at Chicago
Indiana State University
Indiana University, Bloomington
Indiana University-Purdue University,
Fort Wayne
Indiana University-Purdue University at
Indianapolis
Iona College
University of Iowa
Iowa State University
Jackson State University
Jacksonville State University

Jacksonville University
James Madison University
University of Kansas
Kansas State University
Kennesaw State University
Kent State University
University of Kentucky
La Salle University
Lafayette College
Lamar University
Lehigh University
Liberty University
Lipscomb University
Long Island University-Brooklyn
Longwood University
University of Louisiana at Lafayette
University of Louisiana at Monroe
Louisiana State University
Louisiana Tech University
University of Louisville
Loyola College (Maryland)
Loyola Marymount University
Loyola University Chicago
University of Maine, Orono
Manhattan College
Marist College
Marquette University
Marshall University
University of Maryland, Baltimore
County
University of Maryland, College Park
University of Maryland, Eastern Shore
University of Massachusetts, Amherst
McNeese State University
University of Memphis
Mercer University
University of Miami (Florida)
Miami University (Ohio)
University of Michigan
Michigan State University
Middle Tennessee State University
University of Minnesota, Twin Cities
University of Mississippi
Mississippi State University
Mississippi Valley State University
Missouri State University

University of Missouri, Columbia
University of Missouri, Kansas City
Monmouth University
University of Montana
Montana State University-Bozeman
Morehead State University
Morgan State University
Mount St. Mary's University
Murray State University
University of Nebraska, Lincoln
University of Nevada, Las Vegas
University of Nevada
University of New Hampshire
New Jersey Institute of Technology
University of New Mexico
New Mexico State University
University of New Orleans
Niagara University
Nicholls State University
Norfolk State University
University of North Carolina, Asheville
North Carolina A&T State University
North Carolina Central University
North Carolina State University
University of North Carolina, Chapel Hill
University of North Carolina, Charlotte
University of North Carolina, Greensboro
University of North Carolina, Wilmington
North Dakota State
University of North Dakota
University of North Texas
Northeastern University
Northern Arizona University
University of Northern Colorado
Northern Illinois University
University of Northern Iowa
Northwestern State University
Northwestern University
University of Notre Dame
Oakland University
Ohio University
Ohio State University
University of Oklahoma

Oklahoma State University
Old Dominion University
Oral Roberts University
University of Oregon
Oregon State University
University of the Pacific
University of Pennsylvania
Pennsylvania State University
Pepperdine University
University of Pittsburgh
University of Portland
Portland State University
Prairie View A&M University
Presbyterian College
Princeton University
Providence College
Purdue University
Quinnipiac University
Radford University
University of Rhode Island
Rice University
University of Richmond
Rider University
Robert Morris University
Rutgers, State Univ of New Jersey
Sacred Heart University
Sam Houston State University
Samford University
University of San Diego
San Diego State University
University of San Francisco
San Jose State University
Santa Clara University
Savannah State University
Seattle University
Seton Hall University
Siena College
University of South Alabama
University of South Carolina, Columbia
South Carolina State University
University of South Carolina Upstate
University of South Dakota
University of South Florida
South Dakota State University
Southeast Missouri State University
Southeastern Louisiana University

University of Southern California
Southern Illinois University, Carbondale
Southern Illinois University,
Edwardsville
Southern Methodist University
University of Southern Mississippi
Southern University, Baton Rouge
Southern Utah University
St. Bonaventure University
St. Francis College (New York)
Saint Francis University (Pennsylvania)
St. John's University (New York)
Saint Joseph's University
Saint Louis University
St. Mary's College of California
St. Peter's College
Stanford University
Stephen F. Austin State University
Stetson University
Stony Brook University
Syracuse University
Temple University
Tennessee State University
Tennessee Technological University
University of Tennessee at Chattanooga
University of Tennessee, Knoxville
University of Tennessee at Martin
Texas A&M University, College Station
Texas A&M University-Corpus Christi
Texas Christian University
Texas Southern University
Texas State University-San Marcos
Texas Tech University
University of Texas at Arlington
University of Texas at Austin
University of Texas at El Paso
University of Texas, Pan American
University of Texas at San Antonio
University of Toledo
Towson University
Troy University
Tulane University
University of Tulsa
U.S. Air Force Academy
U.S. Military Academy
U.S. Naval Academy

University of Utah
Utah State University
Utah Valley State College
Valparaiso University
Vanderbilt University
University of Vermont
Villanova University
University of Virginia
Virginia Commonwealth University
Virginia Military Institute
Virginia Polytechnic Institute & State
University
Wagner College
Wake Forest University
University of Washington
Washington State University
Weber State University
West Virginia University
Western Carolina University
Western Illinois University
Western Kentucky University
Western Michigan University
Wichita State University
College of William and Mary
Winthrop University
University of Wisconsin, Green Bay
University of Wisconsin, Madison
University of Wisconsin, Milwaukee
Wofford College
Wright State University
University of Wyoming
Xavier University
Yale University
Youngstown State University

APPENDIX B
SURVEY ONE
ATHLETICS DIRECTORS/ADMINISTRATORS

- 1) How would you classify your role in the athletics department? If you have a specific title following the broad title please indicate what that title is.
 - a. Director of Athletics
 - b. Associate Director of Athletics _____
 - c. Assistant Director of Athletics _____
 - d. Director of Department _____
 - e. In-House/General Counsel
 - f. Other General Employee (please specify title) _____
- 2) How many years have you been in this position?
 - a. Less than one year
 - b. 1-5 years
 - c. 6-10 years
 - d. More than 10 years
- 3) Is your institution public or private?
 - a. Public
 - b. Private
- 4) How many student-athletes are at your institution?
 - a. 0-200
 - b. 201-400
 - c. 401-600
 - d. 601-800
 - e. More than 800
- 5) Do you have a law degree (Juris Doctor degree)?
 - a. Yes
 - b. No

If NO, skip to Question 7
- 6) Have you ever practiced law in a public or private setting?
 - a. Yes
 - b. No
- 7) Do you assist with legal issues that arise in the athletics department?
 - a. Yes
 - b. No
- 8) Do you consult with an attorney on legal matters? (Other than yourself)
 - a. Yes
 - b. No

If NO, skip to Question 10
- 9) In a typical week, how many hours do you consult with an attorney?
 - a. 1-5 hours
 - b. 6-10 hours
 - c. 11-15 hours
 - d. 16-20 hours
 - e. More than 20 hours

- 10) Do you consult with other individuals/departments/companies/etc. on legal matters? (Other than the attorney addressed above)
- Yes
 - No
- If NO, skip to Question 12
- 11) Please indicate the title and department/company of all those you consult.
- _____
- 12) Please indicate how often athletics encounters the following legal issues.
- Daily
 - Weekly
 - Monthly
 - Yearly
 - Occasionally
 - Never
- Contract Negotiation (Employment, vendor, etc.)
 - Contract drafting (Employment, vendor, etc.)
 - Employment issues
 - Torts involving student-athletes
 - Torts involving visitors to campus
 - Risk management
 - Intellectual property
 - Tax issues
 - Criminal charges against student-athletes or employees
 - Personal matters for student-athletes or employees (i.e. traffic tickets, etc.)
 - Gender and racial equality issues—other discrimination issues
 - FERPA
 - Gift/Development (e.g. donor estate planning, etc.)
 - NCAA and other compliance matters (e.g. Equity in Athletics Disclosure Act)
 - Public records
 - Athletics camps/coaches camps
 - Other _____
- 13) Please provide any comments you would like related to the legal issues and the frequency with which they occur that you indicated above.
- _____
- 14) Please indicate who deals with the following legal issues. Check all that apply.
- Attorney in Athletics Department
 - Non-attorney Athletics Administrator
 - University counsel
 - Outside counsel
 - Other
- Contract Negotiation (Employment, vendor, etc.)
 - Contract drafting (Employment, vendor, etc.)
 - Employment issues
 - Torts involving student-athletes
 - Torts involving visitors to campus

- f. Risk management
 - g. Intellectual property
 - h. Tax issues
 - i. Criminal charges against student-athletes or employees
 - j. Personal matters for student-athletes or employees (i.e. traffic tickets, etc.)
 - k. Gender and racial equality issues—other discrimination issues
 - l. FERPA
 - m. Gift/Development (e.g. donor estate planning, etc.)
 - n. NCAA and other compliance matters (e.g. Equity in Athletics Disclosure Act)
 - o. Public records
 - p. Athletics camps/coaches camps
 - q. Other _____
- 15) Please provide any comments you would like in regards to the question above.
- a. _____
- 16) Does the athletic department rely on university counsel to advise on legal issues?
- a. Yes
 - b. No
- If NO, skip to Question 18
- 17) For which legal issues does the athletics department utilize university counsel?
- a. _____
- 18) How often do you or the department interact with university counsel?
- a. Daily
 - b. Weekly
 - c. Monthly
 - d. Yearly
 - e. Occasionally
 - f. Never
- 19) Does the athletics department rely on outside counsel to advise on legal issues?
- a. Yes
 - b. No
- If NO, skip to Question 21
- 20) For which legal issues does the athletics department utilize outside counsel?
- a. _____
- 21) How often do you or the department consult with outside counsel?
- a. Daily
 - b. Weekly
 - c. Monthly
 - d. Yearly
 - e. Occasionally
 - f. Never
- 22) How is outside counsel obtained? (i.e. who seeks and/or hires outside counsel)
- a. _____
- 23) How much would you estimate the department spends on outside counsel each year?
- a. _____

- 24) Does your athletics department have a formal reporting structure/policy/procedure for legal matters?
- Yes
 - No
 - Not sure
- If NO or NOT SURE, skip to Question 26
- 25) Please provide the title and department/organization/company to whom you report legal matters.
- _____
- 26) Does your athletics department have a formal reporting structure/policy/procedure for compliance matters?
- Yes
 - No
 - Not Sure
- If NO or NOT SURE, skip to Question 28
- 27) Please provide the title and department/organization/company to whom your report compliance matters.
- _____
- 28) What do you believe to be the positive characteristics of the way your department manages legal issues?
- _____
- 29) What do you believe to be the negative characteristics of the way your department manages legal issues?
- _____
- 30) Please indicate how effective you believe each of the following structures would be:
- Completely effective
 - Somewhat effective
 - Somewhat ineffective
 - Completely ineffective
- In-house counsel to manage all legal issues in athletics
 - Send all legal matters to university counsel
 - Hire outside counsel to deal with legal issues of department
 - Athletics administrator to oversee legal issues and work closely with university counsel
 - Athletics administrator to oversee legal issues and work closely with outside counsel
 - Other _____
- 31) Please provide any explanation you may have for your answers to how effective each structure would be.
- _____
- 32) Based on your experience, how would you rank the importance of having an attorney on staff in the athletics department?
- Very important
 - Somewhat important
 - Unimportant

33) Please make any additional comments that you feel would add to the study of how athletics department manage legal issues.

APPENDIX C
SURVEY TWO
GENERAL COUNSEL OFFICES

- 1) How would you classify your role in the general counsel office? If you have a specific title following the broad title please indicate what that title is.
 - a. General Counsel
 - b. Associate Counsel _____
 - c. Assistant Counsel _____
 - d. Director of Department _____
 - e. Other General Employee (please specify title) _____
- 2) How many years have you been in the General Counsel office?
 - a. Less than one year
 - b. 1-5 years
 - c. 6-10 years
 - d. More than 10 years
- 3) Is your institution public or private?
 - a. Public
 - b. Private
- 4) How many attorneys are on staff in your office?
 - a. _____
- 5) Have you ever practiced law in a private setting?
 - a. Yes
 - b. No
- 6) Do you assist with legal issues that arise in the athletics department specifically?
 - a. Yes
 - b. No

If NO, skip to Question 10
- 7) Over the past two years, in a typical week, how many hours do you spend on athletics matters?
 - a. 1-5 hours
 - b. 6-10 hours
 - c. 11-15 hours
 - d. 16-20 hours
 - e. More than 20 hours
- 8) Do you consult with other individuals/departments/companies/firms on athletics matters?
 - a. Yes
 - b. No

If NO, skip to Question 10
- 9) Please indicate the title and department/company/firm of all those you consult. (e.g. Title IX officer, EEOC officer, Quality Control officer, law firm, etc.)
 - a. _____
- 10) Please indicate how often athletics encounters the following legal issues.
 - i. Daily
 - ii. Weekly

- iii. Monthly
 - iv. Yearly
 - v. Occasionally
 - vi. Never
 - b. Contract Negotiation (Employment, vendor, etc.)
 - c. Contract drafting (Employment, vendor, etc.)
 - d. Employment issues
 - e. Torts involving student-athletes
 - f. Torts involving visitors to campus
 - g. Risk management
 - h. Intellectual property
 - i. Tax issues
 - j. Criminal charges against student-athletes or employees
 - k. Personal matters for student-athletes or employees (i.e. traffic tickets, etc.)
 - l. Gender and racial equality issues—other discrimination issues
 - m. FERPA
 - n. Gift/Development (e.g. donor estate planning, etc.)
 - o. NCAA and other compliance matters (e.g. Equity in Athletics Disclosure Act)
 - p. Public records
 - q. Athletics camps/coaches camps
 - r. Other _____
- 11) Please provide any comments you would like related to the legal issues and the frequency with which they occur that you indicated above.
- a. _____
- 12) Please indicate who deals with the following legal issues. Check all that apply.
- i. Attorney in Athletics Department
 - ii. Non-attorney Athletics Administrator
 - iii. University counsel
 - iv. Outside counsel
 - v. Other
 - b. Contract Negotiation (Employment, vendor, etc.)
 - c. Contract drafting (Employment, vendor, etc.)
 - d. Employment issues
 - e. Torts involving student-athletes
 - f. Torts involving visitors to campus
 - g. Risk management
 - h. Intellectual property
 - i. Tax issues
 - j. Criminal charges against student-athletes or employees
 - k. Personal matters for student-athletes or employees (i.e. traffic tickets, etc.)
 - l. Gender and racial equality issues—other discrimination issues
 - m. FERPA
 - n. Gift/Development (e.g. donor estate planning, etc.)
 - o. NCAA and other compliance matters (e.g. Equity in Athletics Disclosure Act)

- p. Public records
 - q. Athletics camps/coaches camps
 - r. Other _____
- 13) Please provide any comments you would like in regards to the question above.
- a. _____
- 14) How often do you interact with athletics personnel/officials/administrators?
- a. Daily
 - b. Weekly
 - c. Monthly
 - d. Yearly
 - e. Occasionally
 - f. Never
- 15) Does your office rely on outside counsel when dealing with athletics matters?
- a. Yes
 - b. No
- If NO, skip to Question 17
- 16) For which athletics issues does your office rely on outside counsel?
- a. _____
- 17) How often do you or the office consult with outside counsel in relation to athletics issues?
- a. Daily
 - b. Weekly
 - c. Monthly
 - d. Yearly
 - e. Occasionally
 - f. Never
- 18) How is outside counsel obtained? (i.e. who seeks and/or hires outside counsel)
- a. _____
- 19) How much would you estimate is spent on outside counsel each year for athletics issues?
- a. _____
- 20) Does your institution have a formal reporting structure/policy/procedure for legal matters in athletics?
- a. Yes
 - b. No
 - c. Not sure
- If NO or NOT SURE, skip to Question 22
- 21) Please provide the title(s) and department(s)/organization(s)/companies to whom the matters are reported including your office.
- a. _____
- 22) Does your institution have a formal reporting structure/policy/procedure for athletics regarding NCAA compliance matters (outside of the internal athletics compliance department)?
- a. Yes
 - b. No
 - c. Not Sure

If NO or NOT SURE, skip to Question 24

23) Please provide the title(s) and department(s)/organization(s)/companies to whom those athletics compliance matters are reported including your office.

a. _____

24) What do you believe to be the positive characteristics of the way your institution manages legal issues in athletics?

a. _____

25) What do you believe to be the negative characteristics of the way your institution manages legal issues in athletics?

a. _____

26) Please indicate how effective you believe each of the following structures would be:

- i. Completely effective
- ii. Somewhat effective
- iii. Somewhat ineffective
- iv. Completely ineffective

b. In-house counsel to manage all legal issues in athletics

c. Send all legal matters to university counsel

d. Hire outside counsel to deal with legal issues of department

e. Athletics administrator to oversee legal issues and work closely with university counsel

f. Athletics administrator to oversee legal issues and work closely with outside counsel

g. Other _____

27) Please provide any explanation you may have for your answers to how effective each structure would be.

a. _____

28) Based on your experience, how would you rank the importance of having an attorney on staff in the athletics department?

a. Very important

b. Somewhat important

c. Unimportant

29) Please make any additional comments that you feel would add to the study of how athletics department manage legal issues.

a. _____

APPENDIX D
EMAIL COVER LETTER TO ATHLETICS DIRECTORS

Dear NCAA Division I Athletics Director,

I am writing to ask you to participate in a study on the prevalence of legal issues in Division I college athletics and how departments manage these issues. Please forward this to the individual in your department who most commonly oversees the department's legal matters.

This study is being conducted by, Catherine Mitchell, a dual degree student in Law and Sport Administration at the University of North Carolina at Chapel Hill. The purpose of the study is to determine which legal issues most often arise in college athletics and the ways in which departments and institutions as a whole manage those legal issues facing athletics.

The survey will only take approximately 5-10 minutes to complete. In order to obtain an accurate study of the broad landscape of Division I it is important to have participation from all Division I institutions.

https://unc.az1.qualtrics.com/SE/?SID=SV_8qubwTaaanLoNU1

Your participation is completely voluntary, and the information you provide will be kept confidential. Results will be reported only in aggregate form; your name will never be disclosed, nor will it be associated with your institution or any reported data.

By clicking the survey link above, you agree to be a participant in this research study. If you have any questions about the research project or the survey itself, please contact Catherine Mitchell at cemitch@live.unc.edu. If you have any questions about your rights as a research participant, you may contact the University of North Carolina Institutional Review Board at 919-966-3113 and mention study number 13-3583.

As an additional incentive to complete the survey, I will be happy to send you the results and findings. If you would like to receive this information please respond to the email with your request.

Sincerely,

Catherine Mitchell
J.D. Candidate 2014, UNC School of Law
M.A. Candidate 2014, UNC Sport Administration Graduate Program
cemitch@live.unc.edu

APPENDIX E
EMAIL COVER LETTER TO GENERAL COUNSELS

Dear University General Counsel and/or Administrator,

I am writing to ask you to participate in a study on the prevalence of legal issues in Division I college athletics and how departments manage these issues. Please forward this to the individual in your office who most commonly oversees or interacts with legal matters in athletics (outside of the athletic department).

This study is being conducted by, Catherine Mitchell, a dual degree student in Law and Sport Administration at the University of North Carolina at Chapel Hill. The survey will only take approximately 5-10 minutes to complete. In order to obtain an accurate study of the broad landscape of Division I it is important to have participation from all Division I institutions. I am surveying both athletic directors and general counsels/institutional administrators.

https://unc.az1.qualtrics.com/SE/?SID=SV_0CZ1POP1mCJMhP7

Participation is completely voluntary, and the information you provide will be kept confidential. Results will be reported only in aggregate form; your name will never be disclosed, nor will it be associated with your institution or any reported data.

By clicking the survey link above, you agree to be a participant in this research study. If you have any questions about the research project or the survey itself, please contact Catherine Mitchell at cemitch@live.unc.edu. If you have any questions about your rights as a research participant, you may contact the University of North Carolina Institutional Review Board at 919-966-3113 and mention study number 13-3583.

The survey will close on Friday, March 14 at 5:00PM.

As an additional incentive to complete the survey, I will be happy to send you the results and findings. If you would like to receive this information please respond to the email with your request.

Sincerely,

Catherine Mitchell
J.D. Candidate 2014, UNC School of Law
M.A. Candidate 2014, UNC Sport Administration Graduate Program
cemitch@live.unc.edu

APPENDIX F
REMINDER EMAIL COVER LETTER
ATHLETICS DIRECTORS

Good morning,

I recently emailed you about a study I am conducting on the **prevalence of legal issues in college athletics and how departments and their institutions manage these issues**. I write now to ask you again to consider participating in my study if you have not done so already or to encourage participation by the individual in your department that is most involved in legal issues. The survey will close next **Friday, March 14 at 5PM**. If you have already participated in the survey I give you my sincerest thanks.

Here is the link to the survey:

https://unc.az1.qualtrics.com/SE/?SID=SV_8qubwTaaanLoNU1

Participation is completely voluntary, and the information you provide will be kept confidential. Results will be reported only in aggregate form; your name will never be disclosed, nor will it be associated with your institution or any reported data.

By clicking the survey link above, you agree to be a participant in this research study. If you have any questions about the research project or the survey itself, please contact Catherine Mitchell at cemitch@live.unc.edu. If you have any questions about your rights as a research participant, you may contact the University of North Carolina Institutional Review Board at 919-966-3113 and mention study number 13-3583.

Thank you for your time. If you would like to receive a copy of my final results and findings please respond to this email to let me know and I will be happy to provide that to you.

Have a great weekend.

Sincerely,

Catherine Mitchell
J.D. Candidate 2014, UNC School of Law
M.A. Candidate 2014, UNC Sport Administration Graduate Program
cemitch@live.unc.edu

APPENDIX G
REMINDER EMAIL COVER LETTER
GENERAL COUNSEL

Good morning,

I recently emailed you about a study I am conducting on the **prevalence of legal issues in college athletics and how departments and their institutions manage these issues**. I write now to ask you again to consider participating in my study if you have not done so already or to encourage participation by the individual in your office that is most involved in athletics issues. The survey will close next **Friday, March 14 at 5PM**. If you have already participated in the survey I give you my sincerest thanks.

Here is the link to the survey:

https://unc.az1.qualtrics.com/SE/?SID=SV_0CZ1POP1mCJMhP7

Participation is completely voluntary, and the information you provide will be kept confidential. Results will be reported only in aggregate form; your name will never be disclosed, nor will it be associated with your institution or any reported data. By clicking the survey link above, you agree to be a participant in this research study. If you have any questions about the research project or the survey itself, please contact Catherine Mitchell at cemitch@live.unc.edu. If you have any questions about your rights as a research participant, you may contact the University of North Carolina Institutional Review Board at 919-966-3113 and mention study number 13-3583.

Thank you for your time. If you would like to receive a copy of my final results and findings please respond to this email to let me know and I will be happy to provide that to you.

Have a great weekend.

Sincerely,

Catherine Mitchell
J.D. Candidate 2014, UNC School of Law
M.A. Candidate 2014, UNC Sport Administration Graduate Program
cemitch@live.unc.edu

REFERENCES

- Appenzeller, H. (1998). *Risk management in sport: Issues and strategies*. (1st ed., pp. 5-10). Durham, NC: Carolina Academic Press
- Axon, R. (2013, November 15). Fifth concussion law suit filed against ncaa. *USA Today*. Retrieved December 1, 2013, from <http://www.usatoday.com/story/sports/college/2013/11/15/ncaa-concussion-lawsuit-class-action-christopher-powell/3594003/>
- Bickel, R. (1993). A revisitation of the role of college and university legal counsel. *West's Education Law Reporter*, 85, 989-998. Retrieved July 29, 2013, from <https://a.next.westlaw.com>
- Daane, R. (1985). The role of university counsel. *Journal of College and University Law*, 12, 399. Retrieved July 29, 2013, from <https://a.next.westlaw.com>
- Davis, T. (1995). A model of institutional governance for intercollegiate athletics. *Wisconsin Law Review*, 1995, 599-646. Retrieved July 29, 2013, from <http://heinonline.org>
- Dosh, K. (19, March 2013). *Espn playbok*. Retrieved on December 1, 2013, from http://espn.go.com/blog/playbook/dollars/post/_/id/3163/a-comparison-conference-television-deals
- Drexel University School of Law: NCAA Compliance and Sports Law. Retrieved December 6, 2013, from <http://drexel.edu/law/academics/non-JD-programs/mls/Concentrations/NCAA%20Compliance%20and%20Sports%20Law/>
- Fuller, M. (2009). Where's the penalty flag? the unauthorized practice of law, the ncaa, and athletic compliance directors. *New York Law School Law Review*, 54, 494-516. Retrieved October 9, 2013, from <http://heinonline.org>
- Hackney, H. (2013). Mike leach suffers another loss in concussion-related case. *Legal Issues in College Athletics*, 14(9), 2
- Harper, J. (2012). What athletic directors need to know: a title ix & title vii

primer. *Winthrop Intelligence*, Retrieved October 18, 2013, from <http://winthropintelligence.com/2012/10/29/what-athletic-directors-need-to-know-a-title-vii-title-ix-primer/>

Harris, A. (2013, December 10). NCAA concussion suits merger sought even with differences . *Bloomberg*. Retrieved December 12, 2013 from <http://www.bloomberg.com/news/print/2013-12-05/ncaa-concussion-suits-merger-sought-even-with-differences.html>

Heller, G. (1996). Preparing for the storm:the representation of a university accused of violating ncaa regulations.*Marquette Sports Law Review*, 7, 295-327. Retrieved March 17, 2013, from <https://a.next.westlaw.com>

In re Student-Athlete Likeness Litigation. (2010). Retrieved on October 18, 2013, from <https://a.next.westlaw.com>

Lea, M., & Loughman, E. (1993). Crew, compliance, touchdowns & torts. *The Entertainment & Sports Lawyer.*, 11(3), 15-26. Retrieved October 6, 2013, from <http://heinonline.org>

Lee, B. (2010). Fifty years of higher education law. *Journal of College and University Law*, 36, 649-690. Retrieved July 29, 2013, from <http://heinonline.org>

Levick, R. (2013, August 08). The o'bannon case: A golden opportunity for college sports programs. *Forbes*, Retrieved October 18, 2013, from <http://www.forbes.com/sites/richardlevick/2013/08/08/the-obannon-case-a-golden-opportunity-for-college-sports-programs/>

Lipka, S. (2005, July 01). The lawyer is in. *The Chronicle of Higher Education*, 51(43), A19. Retrieved from <https://chronicle.com/article/The-Lawyer-Is-In/25505/>

Marquette Executive Summary: The National Sports Law Institute of Marquette University Law School. (2011). Execute summary of American law schools teaching of sports law. Retrieved December 1, 2013, from Marquette University Law School website: <http://law.marquette.edu/national-sports-law-institute/2011-sports-law-internet-survey>

Marquette University: Sports Law Program. Retrieved December 1, 2013, from

Marquette University Law School website: <http://law.marquette.edu/programs-degrees/sports-law>

Nabozny v. Barnhill (1975). Retrieved October 18, 2013, from <https://a.next.westlaw.com>

National Sports Law Institute. Retrieved December 1, 2013, from Marquette University Law School website: <http://law.marquette.edu/national-sports-law-institute/welcome>

O'Brien, D., & O'Brien T. (2004). Managing legal issues in college athletics: Proactive strategies for administrators. Horsham, PA: LRP Publications

Ohio State University: Office of Legal Affairs Meet the Staff. Retrieved December 6, 2013, from <http://legal.osu.edu/bios/vannatta.php>

Patuto, J. (2009). The ncaa rules adoption, interpretation, enforcement. *Vanderbilt Journal of Entertainment. & Technology Law.*, 12, 257-334. Retrieved October 2, 2013, from <http://heinonline.org>

Peri, J. (2008). The wisdom of employed general counsel in higher education. *Widener Law Journal*, 18, 191-201. Retrieved July 29, 2013, from <http://lexisnexus.com>

Reilly, C. (2012). The ncaa needs smelling salts when it comes to concussion regulation in major college athletics., *UCLA Entertainment Law Review*, 19, 245-292. Retrieved December 6, 2013 from <http://heinonline.org>

Ruger, P. (1997). Higher education law symposium:the practice and profession of higher education law.*Stetson Law Review*, 27, 175-193. Retrieved March 17, 2013, from <http://lexisnexus.com>

Tharrington, A., & Osborne, B. (2008). An analysis of the presence and perception of the juris doctorate degree in division i college athletics administration. *Journal of Legal Aspects of Sport.*, 18, 309. Retrieved July 29, 2013, from <http://lexisnexus.com>.

Timeline of the unc football scandal. (2013, October 01). Retrieved December 6, 2013 from <http://abclocal.go.com/wtvd/story?section=news/sports&id=9270017>

Tulane University Law School: Sport Law Program. Retrieved December 1, 2013, from Tulane University Law School Web Site: <http://www.law.tulane.edu/tlsAcademicPrograms/index.aspx?id=3566>

UNC Exercise and Sport Science: Sport Administration Track. Retrieved December 1, 2013, from UNC Exercise and Sport Science Web Site: <http://exss.unc.edu/graduate-programs/specializations/sport-administration/overview/>

U.S. Department of Education, Office for Civil Rights. (2012). *Title ix enforcement highlights*. Retrieved October 18, 2013, from website: <https://www2.ed.gov/documents/press-releases/title-ix-enforcement.pdf>

Varady, T. (2013). NACUA lawyers new to higher education workshop. Retrieved October 18, 2013, from National Association of College and University Attorneys Web Site: <https://www.nacua.org/>