

PLANNING FOR AND ADDRESSING NCAA-RELATED ISSUES

A “Baker’s Dozen” Tips for First-Time Counsel

- 1. Understand fundamental NCAA Principles and recognize the unique legal environment.**
 - An NCAA member institution is responsible for controlling its athletics program in compliance with NCAA rules, reporting all breaches of conduct in a timely manner, and cooperating fully with the NCAA’s enforcement efforts.
 - NCAA principles charge the institution with responsibility for the actions of not only staff members, but also for the actions of any other person or entity engaged in activities promoting the interests of the institution’s athletics program.
- 2. Become familiar with athletics administrators, in particular, the athletics compliance staff.**
 - If athletics does not have at least a “dotted line” reporting requirement to the Counsel’s office, consider having one created.
 - Know and evaluate the systems that are being used to monitor, detect and report NCAA violations.
- 3. Ensure that you are involved in matters concerning potential NCAA rules violations.**
 - Create policies to ensure you are in the loop for investigating and reporting any NCAA violations greater than Level IV “incidental” infractions.
 - Counsel’s office should be fully engaged in any matters that have the potential to rise above Level III “breach of conduct” violations. (Possible Level I and II violations are likely to trigger enforcement investigations.)
- 4. Establish an institutional plan of action for dealing with NCAA issues when they arise.**
 - Know when to inform the President and Board.
 - Understand your role in reminding the President and senior administrators of the NCAA cooperative principle, obligations of membership, and responsibility for institutional control.
- 5. Know when to retain specialized outside counsel.**
 - Issue a clear “charge” to outside counsel and establish reporting expectations.

About Bond’s Collegiate Sports Practice Group (CSPG)

The CSPG has been recognized as the leading provider of consulting services to National Collegiate Athletic Association (NCAA) member institutions in the areas of:

- enforcement investigations and infractions cases;
- compliance program reviews and audits;
- student-athlete eligibility reinstatement cases;
- rules interpretations and governance issues; and
- other NCAA-related matters.

These services are provided by our practice group members who have accumulated over a century of experience working as administrators with the NCAA and while in private practice, delivering a wide range of services to numerous colleges and universities. In addition to its investigative and compliance efforts on behalf of well over 100 higher education institutions, Bond’s CSPG has been an innovator in the development of a number of monitoring programs to aid NCAA compliance as well as an educational resource for college and university athletics departments and administration officials.

For more information, visit bsk.com.

6. Establish a plan for NCAA enforcement staff visits to campus.

- Know what to expect in terms of an enforcement investigation. (See “What to Expect When You’re (Not) Expecting...” document.)
- Consider whether the institution should suggest retention of personal legal counsel for coaches, student-athletes, etc.

7. Understand the varying interests of the media relations staff (institution and athletics) and NCAA enforcement staff, and devise a plan to deal with those conflicts.

- With NCAA issues, it’s not a question of “if” news of the investigation will become public, it’s “when”...

8. For public institutions, have a plan and a “point person” for dealing with Freedom of Information Act requests relating to athletics.

- Again, when news of an NCAA investigation hits, it’s not a question of “if” the media will make this request, it’s “when”...

9. Consider incorporating NCAA trends into coaches’ contracts.

- Coaches’ suspensions are now fully on the table.
- Consider whether your institution will tailor contracts to account for possible suspensions and/or findings of violations.

10. Expect that one of your coaches/student-athletes will post something inappropriate on social media.

- Work with athletics and the president’s office to determine the point at which counsel’s office needs to be involved in the matter.

11. Review athletics policies and University policies concerning student misconduct to ensure consistency.

- Make certain that student-athletes are subject to the same standards and judicial proceedings as a nonathlete student in instances of misconduct.

12. Monitor the efforts of the athletics department in student-athlete drug testing

- If the athletics department has developed and adopted a drug-testing program for testing student-athletes, the institution must follow the procedures outlined in that policy. The NCAA does not mandate that such a policy exist, but it may cite the institution for a violation if it fails to follow its own policy.

13. Understand that student-athlete academic issues may also be NCAA issues.

- The institution has the authority to determine whether “academic misconduct” occurred, consistent with policies applicable to all students.
- If a student-athlete is involved in academic misconduct, it is not only an institutional issue, but also a possible violation of NCAA principles of ethical conduct or extra-benefit legislation.
- Be mindful that issues involving academic misconduct may trigger the reporting requirements of NCAA legislation.

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