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A CASE STUDY OF THE USE OF RISK MANAGEMENT
IN NCAA COMPLIANCE AT A DIVISION I INSTITUTION

by

Melody Reifel Werner

Dissertation

Submitted to the Department of Leadership and Counseling

Eastern Michigan University

in partial fulfillment of the requirement for the degree of

DOCTOR OF EDUCATION

in Educational Leadership

Dissertation Committee:

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October 2, 2006

Ypsilanti, Michigan

DEDICATION

This is dedicated to my step-father, William Joseph Fagan, who flew in combat as a navigator on a B-17 Flying Fortress in World War II. After many missions, his plane was shot down. He parachuted from the battered aircraft and was captured and held as a prisoner of war for a year.

Thank you for being a hero to our country and to our family. And for making my mom the happiest woman I know.

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Unfortunately, in the name of anonymity, I cannot publicly thank my informants. However, their candor, willingness to share, and pioneering efforts in risk management made this study possible. All of the informants at the (pseudonymous) Carston State University, the State University System, and the Mid-Central Conference, as well as the informants at the NCAA Enforcement office, welcomed my inquiries and allowed me the freedom to understand their world by conducting interviews and studying their documents. They were forthcoming and candid and generous with their time and ideas, and I am indebted to each one of them. I hope that I have been able to portray their views and experiences as well as they expressed them to me.

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- My chair, Dr. James Berry. His calm demeanor and intelligent advice kept me moving forward. He swept roadblocks aside so that I could forge ahead. His knowledge of executive leadership in higher education as well as his experience as a collegiate student-athlete helped me shape and define my topic.
- Dr. Charles Achilles asked me the right questions at the right time. I learned the vast importance of defining the problem carefully and thoroughly. His incisive observations made each meeting a lively, enjoyable, and productive experience.
- Kenneth McKander's course, *Legal Issues in Higher Education*, was my first exposure to the concepts of risk and was a springboard for my interest in risk

assessment in athletics. He gave generously of his time and showed great interest in my topic. His professional counsel was invaluable to me.

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ABSTRACT

Background: Institutions face significant risks related to athletics compliance. While risk assessment has been a standard part of compliance programs outside higher education, it has not been among the tools of NCAA athletics compliance.

Purpose: To (a) identify the methods and steps of using risk assessment in intercollegiate athletics compliance and (b) evaluate the effects of risk assessment on the athletics compliance operation communication and decision making about compliance, interactions with the NCAA, and compliance outcomes.

Research Design: The researched employed a nonexperimental descriptive case study design.

Setting: The research site was a Division I institution. The institution was purposively selected on the basis of its staff's experience with both risk management and NCAA athletics, as well as the representative size of its compliance staff (one full-time professional and one administrative assistant).

Data Collection and Analysis: Two kinds of data were collected, interview data and documents. Informants included (a) the president, (b) athletics staff members, (c) an athletics council member, and (d) institutional and system-wide compliance staff members, as well as (e) the conference compliance director and (f) two NCAA enforcement staff members. The interviews were primarily one to one and face to face. Relevant documents were collected and reviewed.

The risk-based compliance process was observed to include (a) risk assessment, (b) risk management, and (c) risk assurance. Risk assessment included scanning the environment and identifying, rating, prioritizing, and reporting risks. Risk management

included identifying specific risks in high-priority risk areas, developing risk-mitigation plans, and implementing the plans. Risk assurance included the review of compliance activities by outside parties to verify the controls.

Findings: The findings indicated that risk management had been successfully incorporated into athletics compliance and had positive effects on the compliance function and on communication and decision making about compliance and other athletics risks. No changes were observed in the program's interactions with the NCAA. The athletics compliance program was seen as well-functioning and effective.

Conclusion: The conclusion is that risk management was effective at this institution, could be applied more widely in athletics compliance, and is a potentially powerful and beneficial approach for protecting institutions against athletics risks.

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CHAPTER 1: INTRODUCTION

Institutions face compliance risks in athletics (Bernard, 2003; Buckner, 2004). Both in the 1980s and in the 1990s, more than half of Division I-A institutions were censured, sanctioned, or put on probation (Knight Commission, 2001). The consequences for athletics noncompliance have ranged from embarrassment to resignations, from loss of scholarships to loss of postseason play, and from the return of actual athletics revenue to lawsuits (Cohen, 2005; Independent Investigative Commission, 2004; Lederman, 2004; Suggs, 2005; “U. of Michigan is further penalized,” 2003; Wieman, 2004).

In addition to athletics noncompliance risks, institutions face concerns about lack of integrity in college sports. Criticisms appear regularly in the popular media (Gup, 1989; Lipsyte, 2005; Rozin, 2005), and interest groups have called for reforms and greater institutional control of athletics (Coalition on Intercollegiate Athletics [COIA], 2005; Knight Commission, 1991, 1992, 1993, 2001).

To ensure that athletics programs adhere to its rules, the NCAA requires each institution to establish an athletics compliance program (Buckner, 2004; NCAA, 1996). The NCAA has articulated principles of institutional control: (a) formal policies and procedures, (b) monitoring and enforcement, (c) communication of procedures, (d) alterations of systems as needed, (e) swift response to violations, (f) communication of disciplinary consequences, (g) individual reporting without negative consequences, and (h) compliance education (NCAA, 1996). The NCAA’s C.O.D.E. model outlines key compliance program elements in the areas of (a) communication, (b) organization, (c) documentation, and (d) evaluation (NCAA, 2005). The NCAA also requires an outside review of each institution’s compliance program every four years.

However, although risk assessment has been a standard part of compliance programs outside higher education, risk assessment has not been a commonly used tool in NCAA athletics compliance.

Influential models for compliance programs in the private sector have been the U.S. Sentencing Commission's Sentencing Guidelines for Organizations (U.S. Sentencing Commission, 1991) and the Committee of Sponsoring Organization's *Internal Control--Integrated Framework* (Committee of Sponsoring Organizations [COSO], 1992). The 1991 Sentencing Guidelines' seven elements of effective compliance programs are (a) standards and procedures, (b) oversight, (c) care in delegation and hiring, (d) education, (e) monitoring, audit, and reporting systems, (f) response to violations, and (g) corrective disciplinary action (U.S. Sentencing Commission, 1991). The Sentencing Guidelines were updated in 2004, adding as program elements (a) risk assessment, (b) culture of compliance, (c) ethics, (d) incentives, (e) training for and oversight by senior managers and directors, (f) resources and authority for compliance officers, and (g) program audits (Desio, 2004; Kaplan, 2004; U.S. Sentencing Commission, 2004). The COSO framework for compliance includes (a) control environment, (b) risk assessment, (c) control activities, (d) information and communication, and (e) monitoring (COSO, 1992). These models emphasize the identification and assessment of risks and the creation of corresponding risk-mitigation plans.

Risk assessment has been used at some higher education institutions as an approach to compliance. Crawford, Chaffin, and Scarborough (2001) and Chaffin (2003) described an approach in which (a) risks were identified and prioritized on the basis of

magnitude of potential impact and probability of occurrence, (b) risks were categorized into 15 risk areas (including athletics), and (c) critical institution-level risks were identified.

The lack of risk assessment as a common and normal element of NCAA athletics compliance programs can be seen as a gap. In the absence of risk assessment as an accepted process, athletics compliance officers (presumably) make subjective decisions about how to deploy compliance efforts within the constraints of their resources.

Statement of the Problem

Risk assessment is not part of the NCAA's guidance on athletics compliance programs. The terms *risk assessment* and *risk analysis* cannot be found on the NCAA web site, in the *NCAA Division I Manual* (2005-2006), in NCAA compliance training materials, or in NCAA compliance review materials.

NCAA rules, however, are numerous and extremely detailed. McDonald (2006) described the number of rules in just 4 of the 33 sections in the *NCAA Division I Manual*:

The 491-page 2005-06 NCAA Manual includes 33 different sections of NCAA rules. Those sections include 626 rules under recruiting, 577 under eligibility and determination of eligibility, 511 under permissible benefits, and 1,311 concerning playing seasons and off-season activities. Many of those rules are accompanied by lengthy interpretations, and on the average more than 100 rules are added or revised each year, according to NCAA records. (para. 10)

In the absence of discussion of risk assessment, the implicit message to athletics compliance practitioners is that institutions must set up programs to protect against *all* rules violations. Because compliance functions vary in budgets, staffing, and

responsibilities, it can be assumed that compliance officers make individual judgments about deploying finite compliance resources against risks. Plainly put, they do as much as they can and hope for the best. Some anecdotal evidence suggests that universities do not invest in rigorous athletics compliance programs until they experience a major investigation (Buckner, personal communication, October 24, 2005). The probable perception of presidents is that their athletics compliance programs protect against all risks, but some compliance officers may be living with considerable program compromises. The gap between the probable perception and the reality is cause for concern.

Although it is culturally normal for a compliance officer outside athletics to decide to *accept* (and not mitigate) a risk seen as low impact and low probability, this is not culturally acceptable in athletics compliance. Thus, athletics compliance officers are put in the problematic position of attempting to cover all compliance risks.

By understanding the benefits and procedures of risk assessment (as well as how risk assessment could be reconciled with the cover-all-rules perspective of the NCAA), compliance officers could make risk assessment a constructive part of their repertoires. By adopting risk assessment, athletics compliance personnel would have objective means of communicating and improving. Practitioners would have a clear-cut list of risks for implementation planning and cost-versus-risk decisions. Researchers would have an avenue for studying how risks vary and which elements cover which risks. Finally, university presidents would have a clear window into the specific steps that are being taken (or not taken) to mitigate risks in athletics.

Purpose of the Study

The purpose of this study was to

1. Identify the methods and steps of using risk assessment in intercollegiate athletics compliance.
2. Evaluate the influences of a risk-assessment approach in athletics compliance on (a) the operation of the compliance function, (b) communication and decision making about compliance at the institution, (c) interactions with the NCAA, and (d) compliance outcomes.

Theoretical Frameworks

Two theoretical frameworks shaped the interviews and analysis. “Theory helps you avoid opportunistic study of ‘everything’ by linking broader principles and perspectives with your decisions to attend to some things but not others in the course of your inquiry” (Schram, 2003, p. 42).

The first theoretical framework was the description of risk assessment procedures in higher education settings provided by Crawford et al. (2001). This description of risk assessment provided a conceptual lens for understanding procedures in place at the research site. On the basis of the authors’ description, risk assessment steps should include (a) *identification*, creating an inventory of compliance risks; (b) *measurement*, rating the significance of each risk in terms of potential impact and probability of occurrence; (c) *prioritization*, ranking the risks on the basis of their combined measurement of probability and impact, (d) *reporting*, communicating the prioritized list to university administrators, and (e) a *risk management plan*, a description of risk-mitigation strategies and controls for the identified risks.

The second theoretical framework was the updated Sentencing Guidelines for Organizations (U.S. Sentencing Commission, 2004). The 2004 Sentencing Guidelines provided a conceptual lens for observing the overall quality of the compliance program in place at the research site. The 2004 Sentencing Guidelines indicated that an effective compliance program must (a) seek to identify violations and (b) show evidence of a culture of compliance, (c) educate senior managers and trustees, (d) have active senior leadership, (e) prioritize issues on the basis of risk assessment, (f) establish compliance as a behavioral norm, and (g) emphasize ethics (Desio, 2004). In addition, the 2004 Sentencing Guidelines included the original 1991 Sentencing Guidelines for compliance programs: (a) standards and procedures; (b) high-level oversight; (c) careful hiring and delegation; (d) training and education; (e) monitoring, audit, and nonretaliatory reporting; (f) response to violations; and (g) disciplinary action (U.S. Sentencing Commission, 2004).

Research Questions

Lofland and Lofland (1995) described eight basic categories of questions that social scientists can pose on a given research topic: (a) types, (b) frequencies, (c) magnitudes, (d) structures, (e) processes, (f) causes, (g) consequences, and (h) agency. In this study, the particular categories of interest were (a) the *process* of risk assessment in athletics compliance, and (b) the perceived *consequences* of using risk assessment on the compliance program.

Specifically, the research questions of the study were the following:

1. What are the specific methods and steps for incorporating risk assessment into athletics compliance?

2. What influence does a risk-assessment experience have on a compliance function's priorities, processes, and resource allocations?
3. What influence does a prioritized list of athletics compliance risks have on the communication and decision-making dynamics among the compliance function, athletics department, and university administration?
4. What influence does a risk-assessment approach have on an institution's interactions with the NCAA, which does not have a risk-assessment mindset?
5. What influence does a risk-assessment experience have on compliance outcomes?

Design and Method

The researcher employed a grounded theory design at an institution that had implemented risk assessment in its athletics compliance program. The institution, Carston State University,¹ was selected purposively on the basis of its several years of experience in using a risk-based approach in athletics compliance. Carston State University is part of the State University System, which has implemented institution-wide risk management at all of its institutions. Carston State University is a Division I school with a compliance staff of one professional and one full-time administrative assistant. Its athletics director has been active at the national level, serving on several NCAA and conference committees.

Informants at Carston State University included (a) the president, (b) the athletics director, (c) the athletics compliance officer, (d) the senior woman administrator, (e) the institution compliance officer, (f) a faculty member of the athletics council, and (g) the head men's basketball coach. Also, (a) three compliance staff members at the State

University System level, (b) the external reviewer who conducted the institution's most recent compliance review, and (c) two NCAA enforcement staff members were interviewed for outside perspectives.

Two kinds of data were collected: interview data and documents. The interviews were primarily one to one and face to face. Documents related to risk assessments and compliance plans were collected and reviewed.

Limitations and Delimitations

Limitations of the study included the following:

1. This study contained the limits of any qualitative study, in which the benefits of objectivity, quantifiability, and generalizability are exchanged for the benefit of rich understanding of detail and nuance. In this case, thick description of complex procedural and organizational activities as well as interpersonal and cultural reactions were beneficial and, thus, worth the limitation. Future studies that are objective and quantified should be able to use this descriptive study as a platform.
2. The informants at the State University System and at Carston State University have invested substantial energy in their risk-management program and were likely to be positively disposed toward it. (The researcher countered this to some degree by asking *devil's advocate* questions. In addition, a reviewer who conducted CSU's most recent external compliance review was interviewed to provide a counterbalancing perspective to the CSU informants' self-perceptions.)

3. No institution serving as a *nonexample* or *low use of risk assessment* site was included in the study. While such a subject would provide information about the nonuse of risk assessment, the purpose of this study was to examine the *successful* use of risk assessment in athletics.

The main delimitations of the study included the following:

1. Risk assessment at only one university in one state university system was studied.
2. The State University System experienced major negative risk events in the 1990s, and in response its board and president mandated an institutional compliance program at each institution. Not every Division I school can expect such direct top-down support for compliance and risk management. Nonetheless, the purpose of this study was to identify what risk assessment in athletics compliance looks like when it is supported, implemented, and accepted.

Preliminary Biases, Suppositions, and Expectations

The researcher's personal experiences. My 10 years of experience in athletics compliance has included several external compliance reviews, including one NCAA second-cycle athletics certification and three external compliance reviews. I have attended numerous conference meetings of athletics compliance officers and institutional compliance officers and annual NCAA regional rules education seminars. I have served as an NCAA peer reviewer for two Division I-A institutions' athletics certifications.

I have had four major experiences that affect my personal perceptions about

athletics compliance and risk assessment:

1. In 2005 I experienced a reduction (by half) in athletics compliance resources with no change in expectations about how the compliance operation would maintain coverage of rules compliance. This experience led me to observe that athletics compliance risks were not rationally assessed and managed at my own institution (nor, perhaps, at many others). In other words, in athletics compliance the outcome is always held to be the same (that is, protect against all compliance risks), but the efforts and resources put toward it vary considerably.
2. Also in 2005 I experienced an organization change in which athletics compliance no longer reported organizationally to the athletics department. This change in supervision underlined the role of athletics compliance as that of protecting the university from risk (in addition to helping teams to be competitive under the rules).
3. In 2005 I hired an outside athletics compliance consultant to review the compliance operation. The consultant identified many risks and increased my awareness of compliance risks.
4. As a result of the consultant's findings, an additional compliance professional was provided to the athletics compliance staff. This raised the question of how best to deploy additional energies. Once again, the concept of risk seemed relevant in that the additional resources should be deployed against the greatest risks.

In addition to these experiences, reviewing the literature confirmed both the magnitude of compliance risks and the lack of risk assessment in athletics. Risk assessment is not mentioned on the NCAA web site or in its compliance documents or training. The literature indicated a rise in legal and compliance risk in higher education and some corresponding interest in institution-wide compliance. The State University System arose in the literature as an early adopter in this area. Other than the State University System's self-description, its implementation had not been studied in depth. A qualitative study of risk assessment in athletics compliance at a Division I institution within the State University System appeared warranted.

The researcher's expectations. I acknowledge that I anticipated these findings:

1. I expected that the Carston State University informants would describe risk assessment as a positive element of both athletics and institutional compliance.
2. I expected that the informants would share the procedural details of implementing risk assessment.
3. I expected that, as a result of an emphasis on risk assessment, the informants would discuss risk priorities, risk mitigation, and compliance resource allocation in a more rational and above-board manner than is often observed in other institutions. A risk-assessment tool and procedure would allow athletics compliance practitioners to gather input on institution-level compliance risks, prioritize the risks, and communicate openly to athletics directors and university presidents about the risks and corresponding risk-mitigation actions.

4. I expected that the risk-based culture of the State University System had facilitated the use of risk management in athletics compliance at Carston State University and that implementing risk management at other Division I institutions (without such cultural support) might be more challenging.

To provide a counterbalancing perspective to the CSU informants' self-perceptions and my own biases, the external reviewer who conducted CSU's most recent NCAA-required external compliance review was included as an informant.

Significance of the Study

This study has the following significance.

1. The researcher attempted to *cross the divide* between compliance models outside higher education, which greatly emphasize risk assessment, and NCAA athletics compliance, which does not emphasize risk assessment. The researcher sought ways in which these two perspectives could coexist.
2. The researcher intended to *shine a light* on a common frustration of athletics compliance officers, which is that they are expected to protect against all possible violations of all rules with finite resources. Neither overwhelmed cynicism ("no way can we do all that") nor groundless optimism ("we're probably OK") is appropriate for a compliance officer. Thus, shedding light on a process in which resource limitations are openly acknowledged, risks are prioritized by consensus, and rational decisions are made about deploying the resources against the priorities was beneficial.

3. The study contains detailed descriptions of the steps in conducting risk assessment in athletics compliance. Practitioners will be able to implement risk assessment at their institutions on the basis of these descriptions.
4. The study serves as a description of risk assessment in athletics compliance for future researchers. Researchers may wish to study which risks are prioritized highly, the effectiveness of various risk-mitigation strategies, the resources required to mitigate various risks, and the impact of choosing to accept low-rated risks.

Chapter 2 is a review the two areas of the literature that were seen as relevant to intercollegiate athletics compliance: (a) the area of athletics governance, including reform efforts, presidential leadership, and management issues; and (b) the area of compliance and risk management, both inside and outside higher education, as well as the NCAA's approach to compliance.

CHAPTER 2: REVIEW OF THE LITERATURE

Two areas of literature are relevant to intercollegiate athletics compliance and were reviewed in this study. First, the area of athletics governance was reviewed, in particular, (a) concerns about the behavior of institutions regarding athletics, (b) historical efforts at athletics reform, (c) recent calls for reform, (d) presidents' leadership in athletics, (e) issues in managing college athletics, and (f) research on presidents' involvement in athletics. Second, the area of compliance and risk management was reviewed, including (a) risk management in higher education, (b) risks associated with athletics noncompliance, (c) approaches to and research on compliance outside higher education, (d) the NCAA's approach to compliance, and (e) the specific use of risk management in higher education but outside athletics.

Athletics Governance

Concerns have long existed about college athletics, and efforts at reform have occurred periodically in its history. In recent decades, calls for reform have intensified, the university presidents' role in athletics has been studied, and the management of athletics has been the subject of debate.

Concerns about the Behavior of Institutions Regarding Athletics

Universities face significant risks associated with noncompliance with NCAA rules at the institutional level. In the 1980s, 57 of 106 Division I-A institutions (54%) were censured, sanctioned, or put on probation for major violations of NCAA rules. In the 1990s, 58 of 114 Division I-A institutions (52%) were similarly penalized (Knight Commission, 2001).

Bernard (2003), general counsel at the University of Florida, observed, “Major college athletics programs, though, no longer enjoy the luxury of being just a cog in the wheel of the college. They are highly visible, making it axiomatic that they have a small margin for error” (p. 32).

The consequences of athletics noncompliance can be characterized as the following:

Competitive consequences. Penalties for noncompliance can include loss of scholarships or postseason play. In 2005 the NCAA placed the State University of New York at Stony Brook on three years of probation and took away 12.5 scholarships over two years because of violation of eligibility rules (Wills, 2005). Fresno State University and the University of Georgia each ended their basketball seasons prematurely in 2003 as a result of charges of wrongdoing in their programs (Lederman, 2004).

Revenue consequences. Loss of scholarships or postseason play can translate into revenue loss. In 2003 the NCAA banned the University of Michigan basketball team from postseason play in 2004 and removed one scholarship a year for four years because four players had received money from a booster. The team had already voluntarily removed itself from postseason play in 2002-03 and returned nearly \$450,000 in NCAA postseason revenue (“U. of Michigan is further penalized,” 2003). In 2004 the NCAA prohibited the Mississippi State University football team from going to a bowl in 2004-05, removed four scholarships, and placed the entire athletics department on probation for four years because of recruiting violations (Engber, 2004). In 2002 the NCAA penalized the University of Alabama football team with the loss of 21 scholarships over three years, a two-year ban on postseason play, and five years of probation for recruiting violations,

including a booster's paying high school coaches \$100,000 to steer a player to Alabama (Suggs, 2005).

Expense consequences. The time and expense involved in lawsuits and investigations related to rules violations can be enormous. Ohio State University was sued for \$3.5 million in back pay and benefits by its basketball coach who was fired for loaning \$6,000 to a recruit (Cohen, 2005). Buckner (2004) observed that an internal investigation in preparation for an NCAA investigation of violations involves retaining an attorney, establishing an internal investigation committee, and diverting personnel from other academic, legal, or administrative commitments for what is probably a multi-year commitment.

Reputation consequences. Scandals related to rules violations translate into negative publicity. In 2003 the *Fort Worth Star-Telegram* published a transcript of a tape recording of the men's basketball coach's instructing players and coaches to tell investigators that a murdered player had been a drug dealer (Suggs, 2003). The lie was an attempt to hide the fact that the coach had paid the student-athlete's tuition.

Contribution consequences. Frank (2004) noted two studies that estimated the effect of NCAA sanctions for rules violations regarding donor giving. Grimes and Chressanthins (1994) estimated the effect of the NCAA sanction on Mississippi State University as \$1.6 million (in 1982 dollars) in lost donations. Rhoads and Gerking (2000) estimated that NCAA probation for a violation in basketball reduces giving by \$1.6 million (in 1987 dollars).

Internal conflict consequences. Athletics misconduct increases the divisiveness between athletics and academics. University of Colorado distinguished professor of

physics and 2001 Nobel Laureate Carl Wieman wrote, “I am not sure we can claim any longer to be a ‘university.’ An ‘academic appendage to the football program’ would seem to be a more honest description” (Wieman, 2004, para. 3).

Personal and professional consequences. Athletics scandals can cost presidents, athletics administrators, and coaches their jobs. The president of St. Bonaventure University was forced to resign in 2003 after he admitted a junior-college transfer student who did not meet school or NCAA eligibility requirements (Lederman, 2004). The chairman of St. Bonaventure University's board of trustees committed suicide in 2003 in the wake of the scandal (Lieber, 2003).

Safety consequences. Athletics programs with insufficient controls can foster situations in which crimes occur and the physical safety of students is at risk. An independent commission appointed by the Board of Regents investigated football recruiting at the University of Colorado. The commission questioned the fitness of the school's leaders and said that they “must be held accountable for systemic failings that jeopardized students' safety and allowed for ongoing misconduct” in the recruiting program (Independent Investigative Commission, 2004, p. 6).

At the national level, the risk is that a negative image of intercollegiate athletics will reach a tipping point and create a backlash. A Knight Commission telephone poll of 502 Americans, completed in December 2005, found that 56% said that college athletics programs only care about whether athletes are eligible to play, 85% were concerned that colleges accept athletes who have no reasonable chance of graduating, and 82% believed that giving athletes who struggle academically unfair advantages causes them more harm than good (Knight Commission, 2006).

Although college sports are hugely popular entertainment, simultaneous images exist of college sports as corrupt, exploitive, and out of control (Barlow, 2001; Farrell, 1985; Gee, 2005; Gerdy, 2006; Grant, 1979; Hanford, 2003; Lawry, 2005; Roach, 2004; Sack, 2001; Thelin, 1996, 2002; Thelin & Wiseman, 1989). College sports are regularly lampooned in the popular media as both exploiting and coddling players. In a *Time* magazine article, Gup (1989) reported,

This is the season of “March madness.” It is a frenzied time when basketball rules the tube, millions pour into college coffers, and lanky young giants seem anointed with superhuman gifts of grace and courage. But beneath the pageantry of March madness lies another, more disturbing kind of madness: an obsession with winning and moneymaking that is perverting the noblest ideals of both sports and education in America. . . .Some . . . got their degrees and found jobs. But for many the promise of an education was a sham. They were betrayed by the good intentions of others, by institutional self-interest and by their own blind love of the game. Equally victimized are the colleges and universities that participate in an educational travesty--a farce that devalues every degree and denigrates the mission of higher education. (p. 54)

In an editorial appearing in *USA Today*, Lipsyte (2005) stated,

You rarely saw them [football and basketball players] out of uniform because they ate separately at cordon bleu training tables, lived in designer jock dorms, and studied together in special academic centers where they were able to pick the grad students who wrote term papers for them. They rarely attended classes because they were too busy traveling to games, playing them, practicing for them, resting

up after them or lifting weights in shiny new work-out facilities paid for by your extra student fees. When they did attend classes, it was often in jocks-only seminars in such majors as criminal justice (they tended to have many brushes with law enforcement) and communications (they needed to learn how to deal with the media). (p. 11A)

In a *Wall Street Journal* editorial, Rozin (2005) expressed a similar view:

Big time college sports are a mess. While headlines hype the new football season and speculate on an eventual champion, accounts surface daily of athletes' stealing, assaulting women and getting busted on alcohol and drug charges. And when a title game is played, shadowing the coverage will be news of woeful graduation rates. . . . "The transgressions that universities commit in the name of winning sports undermine the values of the institution," says Derek Bok, former president of Harvard. "In all too many cases, they tarnish the reputation of the university by compromising its admissions standards, its grading practices, and the academic integrity of its curriculum." . . . To create winning teams, reformers believe, universities break rules on training, on the allocation of funds to athletics, and most frequently on athletes' eligibility. Deception begins early, when schools recruit sports prodigies who are ill-equipped--or uninterested--in academics. . . . "The biggest problem is recruiting fine athletes who should not be in college," says Andy Geiger, who retired this summer as Ohio State's athletic director after 11 years that included a national football championship and scandals in football and basketball. "Do we really want a gifted athlete at our school for any reason

other than our own gain? Are we only in it to use these kids and then spit them out?” (p. D7)

The view that college athletes really are professionals--or should be--is never far from the surface. Heuser (2005) quoted University of Michigan head football coach Lloyd Carr's comments on approved NCAA legislation that allows a 12th game in the college football season: “This is a piece of legislation that, in my mind, treats the intercollegiate football player like a professional. If we're going to treat them like professionals, we should pay 'em” (p. D7). Gerdy (2006), a professor in sports administration, expressed the same view more sweepingly:

Division I scholarship athletes are professionals--and to claim otherwise is to ignore reality.

Consider the essence of professional athletics: pay for play. Despite [NCAA president Miles] Brand's idealistic rhetoric, the contract between the college athlete and the institution no longer represents the “amateur” ideal of “pay (scholarship) for education” when it is plain to everyone--coaches, fans, faculty members, media, and especially the athletes--that they are on the campus, first and foremost, to play ball. That, by any definition, is “pay for play.”

The professional model is also about paying whatever you must for coaches, staff members, facilities, scouting, travel, and anything else that coaches believe might make the difference between winning and losing, regardless of how outrageous or remote the actual impact. Professional sports is also about playing anywhere at anytime to reap television revenues. And professional athletics is about the expectation that athletes train year-round and sacrifice their bodies for

“the program.” In short, Division I athletics, as currently structured and conducted, operates on the same basic principles as professional sports teams.

Yet educational institutions have no business being in the business of professional sports. It is time to dismantle the professional model of college athletics and rebuild it in the image of an educational institution.

Specifically, the athletics scholarship must be eliminated in favor of institutional need-based aid. The athletics scholarship at its foundation is the biggest barrier to athletes’ getting a genuine educational opportunity. When you are paid to play, regardless of the form of “payment,” everything takes a back seat to athletic performance. (p. B6)

The conventional wisdom is that the money in college sports causes bad behavior. The popular belief is that universities make big money on athletics. The top schools do. In 2004-05 the top five schools in terms of athletics revenue were Ohio State University, with \$89.7 million; the University of Texas, with just \$50,000 less; the University of Michigan, with \$78.4 million; the University of Florida, with \$77.4 million; and the University of Wisconsin, with \$75.3 million (“OSU athletics,” 2006).

However, the opposite is generally true. In 2002 the NCAA reported that in 2001, just 40 of the 117 Division I-A programs had revenues that exceeded expenses. The average surplus for the 40 programs in the black was a substantial \$5.3 million, but the average deficit for the other 77 schools was a burdensome \$3.8 million (Pickle, 2002). Between 2002-03 and 2004-05, athletic expenses at Division I-A schools rose about 8% a year, whereas the increase in overall college spending was 3-4% a year during the same time (Brady & Upton, 2005).

Even the top athletics-revenue schools sometimes struggle. Although the University of Michigan athletics program reported an operating surplus of \$13.8 million for the 2004-05 year (Madej, 2005), as recently as 2001 the Michigan athletics program had an eight-million-dollar budget deficit (Henning, 2001).

Bond (2005) described the financial tension for Vanderbilt University on a Vanderbilt athletics web site. Even though (or because) Vanderbilt is in a major conference (the Southeastern Conference), it feels the pressure of keeping up with the Joneses:

There are roughly 20 profitable athletic departments in the country, or only 15-20% of all Division I athletic departments. Florida, Ohio State, Texas, Michigan, Oklahoma, [and] LSU are just a few examples. Big state schools with a state-wide following, sold-out 85,000 seat stadiums, student enrollments north of 20,000 and nationwide apparel appeal enable the ultra-high costs of running an athletic department to be offset by tremendous football revenue. . . . Vanderbilt is in an entirely different situation than the aforementioned schools. We are a top-20 university with 6,000 students, many of whom leave Nashville after graduation to pursue impressive careers throughout the world. We are not funded by taxpayers and do not have a “state school” following. We have tuition costs in excess of \$30,000 per student-athlete. We are not able to pack 90,000 fans into a 90,000-seat stadium and sell Vandy gear in Montana. This is true for 80% of all NCAA Division 1 programs, and 100% of all programs below the 1-A level. (para. 16)

In light of the expense pressure, revenue from sports is seen as essential. And the possibility of revenue definitely exists. Tickets for the 2005 Notre Dame vs. University of

Southern California football game reached nearly \$550 apiece (Walker, 2005). In football and basketball, the additional revenue of postseason play can be significant. For example, when the Atlantic Coast Conference planned to have a football championship game for the first time in 2005, the estimated revenues were \$7-10 million, to be split among the 12 schools in the conference (Heuser, 2004). As another example, the football Bowl Championship Series (BCS), a coalition of top-tier Division I-A conferences, projected that in 2005-06, each BCS conference would receive between \$14.8 million and \$22.8 million depending on the conference affiliations of the actual schools participating in the BCS games (Bowl Championship Series, 2005).

Cash from playoff games is not the only perceived benefit of winning. The athletics director of the University of Texas at El Paso stated that football success has helped the school increase enrollment from 14,695 to 19,264 over the past 6 years (Adams, 2005). Adams commented,

The pressure to win has never been greater. Getting a [football] program on track produces national television and bowl-game appearances that alone can cover most of an athletic department's budget and increase the school's enrollment. While the Bowl Championship Series--which limits to six conferences and Notre Dame the chance to compete for a national championship--further divides the haves and the have-nots, the overall proliferation of bowl games and cable sports channels has given even second- and third-tier schools a chance to get valuable national exposure. (p. P9)

White (2005), athletics director at the University of Notre Dame, describing the economic challenge faced by college athletics in the future, stated,

The financial realities of college athletics are substantial. To that end, the arms race, as it has been coined, has placed financial pressure on institutions to keep up. In my view, there may be only five to 10 Division I-A (out of 117) institutions that are really cash-flowing. Not unlike at other levels, many institutions are subsidizing--to a great extent--their intercollegiate athletics programs, via some form of financial mechanism (large student fees, internal transfers to cover tuition and/or room and board expenses, targeted state appropriations). Over the next decade, with expenses spiraling out of control, this may well become a crisis area for all of us. (p. 18)

Historical Perspective on Athletics Reform

Institutions have struggled with the dilemma of balancing the core academic mission of their institutions with the realities of Division I athletics programs ever since universities first started fielding athletics teams (Newman & Miller, 1994). Eighteen deaths resulting from violent plays in college football led President Theodore Roosevelt to threaten to abolish the game nationwide (Rozin, 2005).

In 1905, two opposing factions, the Intercollegiate Athletic Association of the United States and the Intercollegiate Football Rules Committee, were in conflict over the authority to establish and regulate rules (Newman & Miller, 1994). With President Roosevelt's mediation, the Intercollegiate Football Rules Committee recognized the Intercollegiate Athletic Association of the United States. In 1906, the Association adopted a constitution and by-laws. In 1910, the Association changed its name to the National Collegiate Athletic Association (NCAA).

In 1929, the Carnegie Foundation for the Advancement of Teaching conducted a study of intercollegiate athletics and determined that recruiting had become corrupt, professionals had replaced amateurs, education was being neglected, and commercialism was rampant (Knight Commission, 1993). The Carnegie report noted that “the defense of the intellectual integrity of the colleges and universities lies with the president and faculty” (Newman & Miller, 1994).

In 1948, in response to concerns about gambling, aggressive recruiting, and the rise of lucrative bowl games, the NCAA passed what became known as the “Sanity Code.” The Sanity Code (Article 3 of the NCAA Constitution) defined amateurism, required athletes to be held to the same academic standards as other students, required that financial aid be awarded without consideration for athletic ability, and prohibited the offering of financial aid as part of recruiting. Interestingly, the media considered the Sanity Code unreasonable and dubbed it the “Purity Code” (Brown, 1999).

In the early 1950s, the American Council on Education conducted two studies on college athletics and concluded that institutional presidential attention was needed (Newman & Miller, 1994). The authors of the first study proposed eliminating bowl games, spring practice, and the subsidization of athletes (Sack, 2001). The authors of the second study advocated the need for athletic programs that enhanced the educational mission and that were directed by clear institutional policies (Newman & Miller, 1994).

A 1974 American Council on Education study, done by George Hanford, raised concerns about college sports’ siphoning dollars from academics, discrimination against minorities and women, and recruiting violations (Hanford, 2003). Hanford noted later that many university presidents grumbled “that I ought to mind my own business and keep my

grubby hands out of matters I didn't understand" (McGraw, 1997). In 1979, the ACE released another study in which it called for reforms and specifically urged presidents and athletic directors to bring sports programs "in line with the educational missions of colleges" (McGraw, 1997).

Recent Calls for Reform of Intercollegiate Athletics

The Knight Foundation (of the Knight family of Knight-Ridder newspapers) created the Knight Commission on Intercollegiate Athletics in 1989 as an independent panel of leaders from education, business, and sports to study college sports. The Knight Commission published four significant reports, in 1991, 1992, 1993, and 2001.

The Knight Commission's first report (Knight Commission, 1991) recommended reforms reflecting four fundamental principles. The first principle was presidential control. Athletic departments, conferences, and the NCAA itself were governed in inconsistent ways, and presidential authority was often nonexistent. The second principle was academic integrity. This confronted the practice of admitting academically unprepared student-athletes and putting them in marginal, nondegree courses. The third principle was financial integrity. It was not uncommon for boosters to raise funds outside the university and distribute them without university oversight. The fourth principle was certification, similar to the accreditation system on the academic side. The Knight Commission linked the principles in a *one-plus-three* model: presidential control, academic integrity, financial integrity, and independent certification.

The Knight Commission's second report (Knight Commission, 1992) concluded that a solid start toward reform had been made, particularly in the areas of presidential control and academic reform. Stronger rules related to degree requirements, grade point

average, school year, coaches' income, and official visits by prospective athletes had been enacted. The Knight Commission praised the involvement and impact of the NCAA's advisory Presidents Commission. The Knight Commission expressed concerns about fine-tuning reforms out of existence through exceptions, federal and state legislation overshadowing the NCAA's authority, and presidents' despairing over the complexity of issues.

The Knight Commission's third report (Knight Commission, 1993) expressed optimism about the rising presidential leadership in the NCAA, increasing academic standards, and the start of a certification program. The Knight Commission expressed concerns about recruiting, boosters and the effects of television, as well as the need for further strengthening academic standards and supporting minority student-athletes. The commission identified two large issues: cost containment and gender equity.

The Knight Commission's fourth report (Knight Commission, 2001) noted that the problems of big-time college sports had grown rather than diminished since its original 1991 report. The Knight Commission identified the most glaring elements as academic transgressions, a financial arms race (a spending competition to build facilities), and commercialization. The commission proposed a new one-plus-three model: a Coalition of Presidents, directed toward academic reform, de-escalation of the athletics arms race, and de-emphasis of the commercialization of intercollegiate athletics. The Knight Commission's recommendations for academic reform included the following: (a) Athletes should be mainstreamed through the same academic processes and requirements as are other students; (b) athletic teams that do not graduate at least 50% of their players should be barred from post-season play; (c) scholarships should be tied to specific athletes until

they or their entering class graduate; (d) the lengths of practice seasons, playing seasons, and postseasons should be reduced; and (e) the NBA and NFL should develop minor leagues. Recommendations regarding the arms race included the following: (a) Expenditures in football and basketball should be reduced; (b) coaches' compensation should be in line with prevailing norms at the institution; (c) coaches' outside income should be negotiated by the institution, not by the individual coach; and (d) television revenue from the men's Division I basketball championship should be reallocated. Recommendations regarding commercialization included the following: (a) Institutions, not broadcasting companies, should determine when games are played; (b) commercial intrusions in stadiums should be minimized; (c) corporate logos on uniforms should be prohibited; and (d) legislation banning legal gambling on college sports should be supported.

A fifth report by the Knight Commission (Frank, 2004) reviewed studies on the effects of successful college athletics programs on student applications and donor contributions. Frank reviewed 6 studies on the effect of athletics success on the quantity and quality of applications and 13 studies on the effect of athletics success on contributions. Frank concluded that "if success in athletics does generate the indirect benefits in question, the effects are almost surely very small" (p. 33).

Frank pointed to several psychological phenomena to explain high athletics spending. One is the compelling nature of individual episodes, such as Boston College's 12% increase in applications in the year following quarterback Doug Flutie's last-second touchdown pass to beat the University of Miami in 1984 (the so-called *Flutie effect*). A second is the *Lake Woebegone effect*, in which schools overestimate their chances of

athletics success and believe they are all above average. A third is the arms-race economic behavior observable in an exercise called the entrapment game, in which a 20-dollar bill is auctioned normally except that the second-highest (losing) bidder must also pay. The bidding usually far exceeds the 20-dollar prize because a losing bid of \$19 loses \$19, but a winning bid of \$21 loses only \$1, and so on.

Other calls for reform have come from (a) the Drake Group, (b) the Coalition on Intercollegiate Athletics, and (c) the Presidential Coalition for Athletics Reform. The Drake Group was formed in 1999 to support academic integrity in college sports. The Drake Group called for seven academic reforms in college athletics: (a) Retire the term *student-athlete*; (b) make the location and control of academic support services for athletes the same as for all students; (c) establish policies that emphasize the importance of class attendance and schedule so that athletic contests do not conflict with class attendance; (d) replace one-year renewable scholarships with need-based aid or multi-year scholarships that extend to graduation (five-year maximum); (e) require a cumulative GPA of 2.0 each semester; (f) publicly disclose a student-athlete's major, academic advisor, required courses, electives, class GPAs, and instructors; and (g) require one year of residency for transfer students and freshmen before they participate in a sport.

The Coalition on Intercollegiate Athletics (COIA) was formed in 2002 as a coalition of Division I-A faculty senates to promote academic reform in college sports. It sought to work with the American Association of University Professors, the Association of Governing Boards, and the NCAA to achieve reforms. The COIA proposed reforms in five areas: (a) admissions; (b) scholarships; (c) curricular integrity; (d) time commitment,

missed class time, and scheduling of competitions; and (e) academic advising of athletes (Coalition on Intercollegiate Athletics [COIA], 2005).

In the area of admissions, the COIA proposed that institutions develop policies setting criteria for the admission of scholarship athletes and that institutions track the academic performance of scholarship athletes, especially transfer students. The group proposed that athletics scholarships be awarded on a year-by-year basis for up to five years and that authority for revoking a scholarship should rest with the chief academic officer. In the area of curricular integrity, the COIA proposed that data on athletes' majors, courses, grades, and course GPAs for each sport be collected and shared with appropriate campus governance bodies. Regarding time commitment, class time, and scheduling, the COIA proposed (a) that the 20-hour-per-week practice rule be better enforced, (b) that institutions and conferences establish policies on missed class time, (c) that divided competition seasons not be permitted, (d) that norms for travel times be established, and (e) that competitions not be scheduled during final exams. The group also proposed that the academic advising office (a) report directly to the office of academic affairs, (b) work closely with the Faculty Athletics Representative (FAR), (c) collaborate closely with other campus advising units, (d) have appropriate independent authority, and (e) track academic progress toward degree completion (COIA, 2005).

The Presidential Coalition for Athletics Reform was formed in 2003 as a coalition of non-BCS institutions against the football Bowl Championship Series (BCS). Led by Tulane University president Scott Cowen, whose Tulane football team was undefeated in 1998 but shut out of the top bowls, the Presidential Coalition for Athletics Reform sought equity between BCS and non-BCS institutions. In 1998 six conferences (the Atlantic

Coast Conference, the Big East, the Big 12, the Big Ten, and the Pacific-10, and Southeastern Conference), one independent university (the University of Notre Dame) and four bowls (the FedEx Orange Bowl, the Nokia Sugar Bowl, the Rose Bowl, and the Tostitos Fiesta Bowl) formed the BCS. Through a system of rankings, rotations, and selections, the BCS determines bowl participants and ultimately a national champion. The Presidential Coalition for Athletics Reforms called the BCS unfair, inconsistent, harmful, and restrictive. It called for a fairer arrangement that would (a) unify Division I-A, (b) provide reasonable opportunity for all Division I-A schools to reach the top bowls, (c) be more consistent with championships in other NCAA sports, and (d) enhance the interest level and meaningfulness of bowl games (Cowen, 2003).

Myles Brand, president of the NCAA since 2002, described college athletics as being at a crossroads (Brand, 2003). Brand noted that in some ways college sports had never been in better shape: (a) College football would likely set attendance records, and more football games were on television than ever before; (b) athletics participation by women had grown by 400% over the last 30 years; (c) the Division I men's basketball championship had become one of the premier athletics events in the world; (d) athletics revenues were greater than ever before; and (e) graduation rates for student-athletes were at an all-time high in 2002. Brand simultaneously observed that (a) athletics costs were also at an all-time high; (b) graduation rates for football and Division I men's basketball were below those of the general student body; (c) a series of major scandals had occurred; (d) state legislatures were debating bills to address inequitable treatment of student-athletes; (e) charges of academic fraud among student-athletes were made at some of the best universities; and (f) the concept of amateur athletics appeared to be untenable in the

face of increasing athletics budgets and coaches' salaries and continuing facility expansions.

Brand proposed (a) continuing the academic reform in athletics; (b) continuing the review of rules related to student-athlete welfare, such as safety, time commitments, and insurance; (c) increasing the athletics scholarships to the full cost of attendance; (d) increasing the accountability of coaches; (e) mainstreaming athletics into the university; (f) utilizing normal university budget controls for athletics (as opposed to seeking financial self-sufficiency); and (g) having faculty take a leadership role in academic reform in athletics.

Presidents' Leadership in Intercollegiate Athletics

The concept of institutional control under presidential authority is a constitutionalized philosophy of the NCAA. Various campus constituencies are expected to play an active role in administering an effective rules-compliance program, and chief executive officers are specifically held responsible for the administration of the athletics program (Katz, 2001). Section 2.1.1 of the NCAA Constitution (NCAA, 2005-2006) states,

It is the responsibility of each member institution to control its intercollegiate athletics program in compliance with the rules and regulations of the Association. The institution's chief executive officer is responsible for the administration of all aspects of the athletics program, including approval of the budget and audit of all expenditures. The institution's responsibility for the conduct of its intercollegiate athletics program includes responsibility for the actions of its staff members and

for the actions of any other individual or organization engaged in activities promoting the athletics interests of the institution. (p. 3)

Interestingly, however, in the early days of the NCAA and into the 1960s and 1970s, faculty representatives were dominant in the NCAA. Then, in the 1980s, as the business side of college athletics grew, athletics directors and conference commissioners became more prominent. A shift occurred in which faculty representatives focused more on student issues and athletics directors focused more on business issues (Brown, 1999).

Also in the 1980s, as both revenue opportunities and violations increased and calls for reform intensified, some university presidents sought more control of the NCAA. The 1984 NCAA convention proposal to give presidents more formal control was defeated, but a Presidents Commission with advisory-only powers was created (McGraw, 1997).

The presidents were nonetheless still able to effect significant changes. In 1985, presidents successfully promoted the *death penalty*, by which a university's entire athletics program could be banned from all competition for a year. (Only Southern Methodist University has suffered this fate.) In 1991, presidents successfully supported the 20-hour rule, limiting practice and competition to 20 hours per week (Hawes, 1999). In 1992, presidents successfully pushed Proposition 16 (which strengthened 1983's Proposition 48), raising test-score and grade-point-average requirements. In 2002, the presidents initiated academic reforms that have culminated in the Academic Progress Rate (APR), which holds coaches accountable (under penalty of loss of scholarships) for the year-to-year eligibility and retention of each student-athlete (Lederman, 2004).

Following a major restructuring in 1997, the two top NCAA committees, the Executive Committee and the Division I Board of Directors, were composed primarily of university presidents. The NCAA Executive Committee, responsible for the association's strategy planning and oversight, is composed of the NCAA president, 12 Division I presidents, 2 Division II and 2 Division III presidents, and the chairs of the Division I, II, and III management councils. The Division I Board of Directors, responsible for policy and rule changes, is composed of 11 Division I-A presidents (one per conference) and 7 Division I-AA or Division I-AAA presidents. Athletics administrators constitute the Division I Management Council, whose 49 members vote on rules recommendations to the Division I Board of Directors (Lederman, 2004).

Differing views have been expressed about whether presidents can really control athletics on their own campuses. Patricia Cormier, president of Longwood University and chair of the NCAA Division II Presidents Council, stated,

Presidential control is for us, the moral of the story. We believe you have to apply to intercollegiate athletics the same set of standards that you are applying on your campus for all students. There are no exceptions to this. (Copeland, 2003, para. 6)

Expressing a less optimistic view, original Knight Commission member and former University of Maryland and professional basketball player Tom McMillen observed, "On individual campuses, the presidents really are almost powerless. The athletic machine is so strong, and it is very, very difficult for a president to stand up to it" (Lederman, 2004, para. 10). Similarly, Arkansas athletics director Frank Broyles stated, "I haven't seen presidents do anything different or better than the people who were running the show beforehand—to the contrary, actually" (Lederman, 2004, para. 24).

Different views have also been expressed about whether presidents or conference commissioners control athletics at the conference level. NCAA Executive Committee chair and University of Tulsa president Robert Lawless stated,

A lot of the doubt about whether presidents are in control emanates from Division I-A, and, most specifically, football. I would say at this point in time that it is not accurate to say that the presidents are in control of football--certainly not postseason football (Copeland, 2003, para. 39).

University of Kansas chancellor Robert Hemenway expressed a different view:

I know there's a lot of talk out there about the conference commissioners somehow guiding the presidents and chancellors in determining their collective direction. If you've ever been to a conference meeting, I don't think you would come to that conclusion. It's a complicated business, and there's a lot of money associated with it, and there's a lot of complexity associated with it, so you need very good and strong people to be commissioners. But I don't think you'll find any commissioner who claims that they [*sic*] can take 10 or 12 highly compensated and extremely strong-minded presidents and chancellors, and bend them to your [*sic*] will. I just don't think that's the case. (Copeland, 2003, para. 43)

The presidents themselves appear to be confident of their control of athletics. Rose (1993), in a survey of 293 Division I presidents with 186 (64%) responses, found that 92% indicated that they were satisfied with their involvement in athletics. Caughron (1995), in a survey of 106 Division I-A university presidents with 52 (49%) responses, found that the presidents responded positively that they had authority in all matters of athletics governance at their institutions ($M = 4.67$, $SD = .86$ on a five-point Likert scale). The

presidents also responded positively that they would have the support of their boards of trustees in an athletics controversy ($M = 4.46$, $SD = .80$). Similarly, Easley (1998), in a survey of 275 Division I presidents with 107 survey (39%) responses, found that 74% of presidents believed they had 100% control over their athletics programs, and 21% indicated at least 90% control. Patberg (2002), in a survey of 306 Division I presidents with 219 (72%) responses, found that 99% of the respondents indicated that they had authority on athletics governance on their own campuses, and 97% indicated that they had the support of their boards of trustees on athletics. Most (98%) indicated that the presidents were the final authority within their conferences.

Issues in the Management of College Athletics

White (2005), athletics director at the University of Notre Dame, succinctly described the expectations faced by an athletics director:

We are expected to win, we are expected to graduate our student-athletes, we are expected to play by the rules and we are expected to balance the budget. And we are expected to do all those things in a much more visible setting than ever before.
(p. 18)

In light of these expectations, several issues about managing athletics have arisen. One issue is the reporting relationship of the athletics director. Sanders (2004) conducted a survey of the reporting relationships of athletics directors in 977 Division I, II, and III institutions. On the basis of 395 athletics directors' responses (40.4%), Sanders found that the most common organizational structure in all NCAA divisions was the athletics director's reporting directly to the president; 42.3% reported this relationship.

Division I-A Vanderbilt University startled the college athletics world in 2003 by eliminating its athletics director and athletics department. The management of varsity teams was moved to the Office of Student Athletics, Recreation and Wellness (Zillgitt, 2004). The management of sports facilities was moved to a new Office of Facilities and Conferences. Responsibility for athletics media relations, marketing, broadcasting, publications, and websites was moved to the Division of Public Affairs. The direction of the sports club for fans and donors was moved to Development and Alumni Relations. Athletics financial and administrative operations were moved to the Division of Student Life and University Affairs. Athletics academic support was moved to the office of the associate provost (“Vanderbilt announces athletics,” 2003).

A second issue is the organizational location of athletics-related support services. One approach has been to locate services that support athletics within the athletics department. The opposite approach is to integrate those services in the larger institution. Curley (2005), athletics director at Pennsylvania State University, advocating the integration approach, wrote,

Total integration of all the administrative components of the athletics program within the university’s organizational structure gives the president the greatest chance to be successful with one of the most challenging responsibilities placed upon his or her shoulders. . . . Changes have been made to organizational structures on campuses that have resulted in athletics directors reporting directly to presidents and integrating athletics department functions to be better aligned with the central student support services of the university. The most notable organizational integration has occurred with the change in reporting lines of

academic support services to closely align with overall student academic support services on campus. Other areas that have seen organizational reporting line changes include, but are not limited to, development, finances, human resources, summer camps, and medical delivery. Other university student services areas that also should be integrated are admissions, financial aid, registrar, bursar, housing and food services, and risk management. (p. 18)

Harvey Perlman, chancellor of the University of Nebraska, expressed the opposite viewpoint on integration:

For example, at Nebraska, integrating academic-support programs into our general advising program and having them report to the provost would be, in my view, a bad idea. We have a successful academic-support program. Our athletics department takes particular pride in its success and there is evidence throughout our stadium and athletics facilities that academic success is recognized and taken seriously. The only position I know of in a modern university more overburdened than the president is the provost. What fractional share of that office's attention will be paid to athletics programs? And, more significantly, how can I hold my athletics director responsible for the academic success of his student-athletes if he does not have direct responsibility? Indeed, the more you "integrate" athletics functions into the general university, the less responsibility the athletics director has for anything other than winning on the field—an unhealthy circumstance in my view. (Perlman & Potuto, 2005, p. 6)

A third issue is the particular organizational location and reporting relationship of the athletics compliance function. Reifel Werner (2005) conducted a pilot survey of the

views and management structures of Division I athletics compliance officers. A convenience sample of 16 respondents was obtained via an invitation on an online compliance discussion board. Of the 16 respondents, 11 reported the athletics director as their direct supervisor, 3 reported to the associate athletics director, and 2 reported to the senior associate or senior woman administrator. Of the 16 respondents, 11 reported having a dotted-line reporting relationship in addition to a direct supervisor. Of the 11 respondents reporting a dotted-line relationship, 7 reported on a dotted line to the president, and one each reported to the athletics director, the associate athletics director, the faculty athletics representative, and the vice president of student affairs.

It can be observed that following high-profile infractions, some universities alter the reporting relationship of compliance such that the position reports outside athletics or has a dual reporting relationship. Responding to compliance difficulties at the University of Colorado, the chancellor's progress report on athletics stated, "In order to help ensure independence in compliance responsibilities, the Provost will conduct the annual performance evaluation and set the salary for the Associate Athletics Director for Compliance, in consultation with the Athletics Director" ("Progress report on implementation," 2004). In the wake of compliance issues at Ohio State University, the university president, Holbrook (2005), wrote,

Ohio State's rigorous compliance program is recognized as one of the best in the country. Nonetheless, we have taken additional steps to ensure that both aspects of compliance [education and monitoring] are as strong as possible:

1. Attendance at the mandatory compliance-education programs is being stringently enforced.

2. A new dual reporting relationship for our compliance program to athletics and the university's office of legal affairs has been established.
3. The university general counsel participates in the biweekly meetings of the executive compliance committee.
4. Attorneys from the office of legal affairs meet weekly with athletics compliance staff. (p. 6)

Perlman and Potuto (2005), in describing the athletics organizational alignment at the University of Nebraska, reported that the faculty athletics representative (who reported to the chancellor's office) had oversight over compliance operations. Perlman and Potuto noted that Nebraska had had major infractions in two sports four years earlier.

Regarding athletics compliance directors themselves, Lawrence (2003) studied the relationship between organizational climate and job satisfaction for Division I athletic compliance directors. Surveys were sent to 346 Division I compliance directors, and 164 surveys were returned (47% response rate). Lawrence found that compliance directors tended to be White males with (a) a master's degree, (b) 6-10 years of experience in athletics administration, and (c) the title assistant or associate athletic director. Overall job satisfaction was moderately high and significantly related to (a) evaluation procedures, (b) opportunities for promotion, (c) regard for personal concerns, and (d) relationships with coaches.

A fourth issue is the faculty's involvement in athletics governance. Newman, Miller, and Bartee (2000) used a Delphi survey technique with 15 athletics directors and 15 faculty senate presidents to identify how faculty should be involved in the administration, or governance, of intercollegiate athletics. Twenty-three respondents (77%

response rate) identified 49 possible methods, means, or techniques. After three rounds of the Delphi survey, the top three strategies with strongest agreement among the respondents were (a) reviewing the academic support services made available for student-athletes; (b) comparing the graduation rate, retention, and academic performance of student-athletes to the general population; and (c) cooperative reviewing of proposed NCAA legislation regarding academic policies.

Regarding the relationship between athletics programs and institutions, Baumgartner (1996) examined the influence of organizational culture on intercollegiate athletics through interviews at four institutions in a Division I-A athletic conference. The researcher found differences in values among the institutions regarding (a) athletic programs, (b) student-athlete academic achievement, and (c) student-athlete welfare. Baumgartner concluded that the behavior of intercollegiate athletics personnel was more influenced by institutional culture than by job position. Marcoccia (2003) studied how leadership enhanced the impact of Division I intercollegiate athletics on Syracuse University. Nineteen leaders connected with intercollegiate athletics were interviewed. Marcoccia concluded that an intercollegiate athletics program can draw positive attention to its university and connect it to its constituencies if its leaders manage it in a manner consistent with the university's values and mission.

Research on Presidents' Involvement in Athletics

Following the Knight Commission's 1991 call for greater presidential control of athletics, a number of researchers focused on the nature of presidential involvement in athletics (Caughron, 1995; Easley, 1998; Freedman, 2002; McQueen, 1992; Patberg, 2002; Rose, 1993; Shavers, 2004).

McQueen (1992) analyzed the NCAA Presidents Commission's efforts to reform intercollegiate athletics from 1984 to 1991.² McQueen used Easton's political systems analysis model as the conceptual framework. Easton's model views political activity as a system, with stresses from the environment acting as inputs, the political system producing responses as outputs, and feedback flowing back to the system on the effects of the outputs. The methodology was a historiography, in which past events were examined to formulate generalizations. McQueen utilized (a) transcripts of NCAA Convention proceedings, (b) minutes from Presidents Commission meetings, and (c) documents from NCAA Council meetings, Administrative Committee meetings, and Executive Committee meetings. Three leaders of the Presidents Commission were also interviewed.

McQueen observed that the Presidents Commission was successful in 1984 through 1986 in securing NCAA legislation in two major areas of concern: integrity and economics. The Commission had communicated actively with chief executive officers (CEOs) of NCAA-member institutions, using a detailed survey to identify their concerns. All 1985 legislative proposals were then based on the survey findings.

McQueen identified a critical point in 1987 when the Presidents Commission failed to secure passage of its legislative proposals. The Commission had allowed a group of presidents with ties to the American Council on Education (ACE) to set its agenda for reform. The Commission did not then have enough time to discuss issues adequately or solicit support from other athletics groups. The Presidents Commission was also unable to gather support quickly enough to propose any legislation in 1988.

The primary internal stresses at this time were crowded agendas and low attendance by members. The Commission relieved the stresses by (a) authorizing its

Executive Committee to decide the issues to be considered by the full Commission and (b) modifying its rules to require that a member automatically resign after missing three consecutive meetings.

The primary external stress at this time was the inability to establish consensus and support on key issues. The Presidents Commission relieved this stress by (a) collaborating with the NCAA Council on the details of legislative proposals; and (b) working within the traditions of the NCAA, such as committees' studying issues for at least one year before attempting NCAA rules changes. The Commission's effective communication with NCAA-member CEOs was a critical element in securing the passage of legislation. The communication included (a) an 18-month National Forum, a series of discussions on the balance of academics and athletics; (b) the use of two former CEOs as consultants to contact CEOs; (c) active recruitment of CEOs to attend the 1991 NCAA Convention; and (d) designation of its proposals as roll-call (public) votes. The communication strategy was successful. A record number of CEOs attended the 1991 Convention and voted overwhelmingly in favor of the Presidents Commission's reform legislation.

McQueen's major conclusions were as follows:

1. The Presidents Commission should focus on only one or two issues a year. Otherwise, too many issues dilute the Commission's focus and effectiveness.
2. The Presidents Commission should collaborate with other interest groups, such as athletics directors and conference commissioners, to develop the details of legislative proposals. These groups are able to put into language the Commission's *big picture* ideas.

3. Regular attendance by presidents at the Presidents Commission meetings was necessary.
4. Presidents Commission members should maintain involvement over the long term and avoid becoming involved only in reaction to scandals or perceived threats of Congressional intervention.

Rose (1993) surveyed Division I college presidents' involvement in intercollegiate athletics. The survey addressed (a) those with whom presidents interacted on athletics, (b) the issues addressed, (c) the amount of time devoted, (d) the presidents' satisfaction with their involvement, (e) their involvement outside their institutions, and (f) the reporting relationships of their athletics directors. Surveys were sent to all 293 (at that time) Division I presidents, and 186 (64%) responded.

Rose found that (a) 50% of the 186 presidents had discussions with their athletics directors once per week, and 32% did so once per month; (b) 46% of presidents had discussions with their faculty athletics representative once per month, and 29% did so once per semester; (c) 30% of presidents discussed athletics with their trustees once per month, and 40% did so once per semester; (d) 28% of presidents had discussions with coaches once per month, and 45% indicated other frequencies; and (e) 39% of presidents had discussions with athletics advisory committees once per semester, and 36% had no conversations with them.

The topic of finances was ranked highest as the athletics topic on which presidents spent the most time, with a weighted total of 277 mentions, followed by personnel (115), administration and planning (93), academics (81), and NCAA (76).

Regarding time on athletics issues, 70% of the 186 presidents reported spending one to four hours per week. Interestingly, 49 presidents (26%) reported that their institution had been the subject of an NCAA investigation during their tenure. Of these, 20 presidents indicated that they had increased the amount of time they spent on athletics as a result of the investigation.

Most presidents (92% of the 186 respondents) indicated that they were satisfied with their involvement in athletics. Rose concluded that presidents had responded to concerns about lack of institutional control and were spending time on athletics. Rose suggested that presidents should (a) examine with whom they interacted and for how long, (b) determine whether athletics advisory committees were useful because interaction with them was low, (c) be sure to be active internally if they were active externally in athletics, and (d) consider supervising the athletics director directly because that reporting relationship related positively to other athletics involvement.

Caughron (1995) examined the perceptions of Division I-A presidents toward the athletics reform recommendations in the Knight Commission's 1991 report. A 47-item survey was sent to the presidents of the 106 (at that time) Division I-A universities, and 52 presidents (49%) responded. (The survey used primarily a five-point Likert scale and multiple-choice questions. In a somewhat unusual approach, Caughron analyzed the Likert-scale data using means and standard deviations.)

Caughron concluded that the presidents were generally in agreement with the Knight Commission's recommendations about presidential control, academic integrity, financial integrity, and certification. The presidents indicated that they held the authority over all matters of athletics governance at their institutions ($M = 4.67$, $SD = .86$, on a five-

point Likert scale). The presidents also responded that they would have the support of their boards of trustees in an athletics controversy ($M = 4.46$, $SD = .80$). They indicated that presidents are in control of policy making at the conference level; 63% of the 52 respondents stated that presidents make all major policy decisions at their conferences, 15% stated that presidents define all major policies, and 17% stated that presidents are active in influencing policies. They also responded that presidents, through the NCAA Presidents Commission, should take an active role in defining policy ($M = 4.65$, $SD = .90$).

The presidents supported the development of a certification program in which athletics programs would be audited for rules compliance, academic and financial integrity, and gender equity ($M = 3.75$, $SD = 1.02$). The presidents believed that greater academic standards for incoming and current student-athletes would increase the academic integrity of intercollegiate athletics ($M = 3.90$, $SD = 1.22$). The presidents did not, however, support the reform measure that all student-athletes should be ineligible for competition during their freshman year ($M = 2.63$, $SD = 1.40$).

The presidents indicated that athletics costs must be reduced ($M = 3.96$, $SD = 1.04$). Regarding the financial support of athletics, (a) 37% of the 52 respondents believed that revenue-producing sports should be self-supporting, whereas non-revenue-producing sports should be supported by the general university fund; (b) 31% believed that the athletics department should be financially self-supporting; and (c) 23% believed that athletics revenues should be placed in the general fund and athletics should be supported by the general fund. They indicated that coaches should be held to the same standards as faculty members on outside contracts ($M = 4.39$, $SD = .80$) and favored requiring that

coaches share part of their outside revenue with the institution ($M = 3.98$, $SD = 1.10$). The presidents did not support a Division I-A football playoff system ($M = 2.75$, $SD = 1.43$).

Easley (1998) examined how institutional control of athletics was exercised at Division I institutions and where control problems existed. The presidents and athletics directors of all 275 (at that time) Division I institutions were surveyed. Two surveys were designed, one for the chief executive officers (35 items) and one for the athletics directors (37 items). The surveys addressed (a) support for the president, (b) pressure to win, (c) financial support, (d) threats to institutional control, and (e) institutional control strategies. A total of 107 surveys (39%) were returned from the presidents, and 149 surveys (54%) were returned from the athletics directors.

Regarding support for the president, Easley found that 99% of the 107 presidents and 99% of the 149 athletics directors agreed (on a five-point Likert scale) that their governing boards were supportive of presidential authority. Also, 90% of presidents and 91% of athletics directors indicated that boosters and alumni supported presidential authority. Additionally, 99% of presidents and 100% of athletics directors believed that the athletics director was supportive of presidential authority. Further, 74% of presidents indicated that they had 100% control over their athletics programs, and 21% indicated at least 90% control.

On the pressure to win, 65% of the 107 presidents and 70% of the 149 athletics directors believed that their governing boards expected their athletics departments to have winning programs. Additionally, 46% of presidents and 40% of athletics directors agreed that the athletics director believed his or her job stability depended on winning.

Regarding the pressure on coaches to win, 93% of the 107 presidents and 39% of the 149 athletics directors believed that the athletics director expected coaches to have winning programs. In football and basketball specifically, 83% of presidents and 77% of athletics directors agreed that those coaches believed their jobs depended on winning. In fact, 25% of athletics directors reported that the contracts of football and basketball coaches contained athletics-performance clauses that could cause nonrenewal. In the Olympic sports, such as track and swimming, 51% of presidents and 50% of athletics directors agreed that coaches believed their jobs depended on winning. Also, 17% of athletics directors reported that the contracts of Olympic-sport coaches had athletics-performance clauses that could lead to nonrenewal.

On the topic of financial support, only 43% of the 107 presidents and 46% of the 149 athletics directors agreed that their respective institutions provided enough financial support to the athletics department for it to be considered self-sufficient. In fact, 54% of presidents reported that 50% or less of the athletics budget came from institutional or state funds. Further, 50% of presidents and 56% of athletics directors indicated that their athletics departments relied on funds generated from boosters and alumni.

The presidents were asked to name the greatest threats to institutional control. The threats most commonly stated were (a) boosters (named by 27%); (b) money, funding, and resources (20%); (c) coaches (11%); (d) agents (11%); and (e) external forces (5%). Similarly, the athletics directors' top threats were (a) boosters (named by 28%); (b) professional agents (13%); (c) external forces (11%); (d) money, funding, and resources (9%); and (e) coaches (8%).

When the presidents were asked to identify their three top institutional control strategies, the strategies most mentioned were (a) athletics director (named by 21%); (b) compliance (9%); and (c) policy, procedures, and goals (9%). In turn, the athletics directors' top institutional control strategies were (a) education (named by 22%); (b) compliance (19%); and (c) policy, procedures, and goals (10%).

Easley concluded that institutions had taken steps to establish institutional control of athletics but that the pressure to win and reliance on external funds were causes for concern.

Freedman (2002) conducted a historical analysis of institutional control issues and reforms in NCAA Division I intercollegiate athletics. Freedman observed the NCAA through the lens of Easton's political systems analysis model. Easton's model sees political activity as a system, with disturbances in the environment acting as inputs, the political system coping with the disturbances by producing outputs, and feedback returning to the system on the resulting effects. Freedman analyzed the political history of the NCAA as three cases: (a) the institutional control issues during the formation and early history of the NCAA and the 1929 Carnegie Foundation report; (b) mid-twentieth-century institutional-control issues and the 1952 and 1974 American Council on Education (ACE) reports; and (c) the 1991, 1992, 1993, and 2001 Knight Commission reports.

Freedman examined (a) the reports of the Carnegie Foundation, the American Council on Education, and the Knight Commission; (b) the *NCAA Division I Manual*; (c) memos, minutes, and documents of various NCAA committees; (d) NCAA Convention Official Notices and Proceedings; (e) NCAA Enforcements records and its database of

infractions; and (f) other articles. Interviews were also conducted with one former and one current NCAA administrator.

In observing the early history of the NCAA, Freedman observed that students were the original authorities of the system. Money and prestige quickly became stresses on the system, and presidents and faculty took over as authorities. The philosophy of local control (*home rule*) dominated. Institutions policed themselves, and the NCAA had no enforcement power. Violations increased. Unable to resolve the competing stresses of commercialization, rules integrity, academic values, and local control, the NCAA turned to the Carnegie Foundation for a review. The Carnegie report outlined the problems, but no significant change occurred.

Freedman described the mid-twentieth century as a period of growth in both popularity and problems for the NCAA. Scandals occurred. Television arrived, and money as a stress on the system increased. Athletics and academics were organizationally split on campuses, making institutional control more difficult. The two ACE reports called for reforms, but few changes were implemented.

Freedman characterized the period of the 1980s and 1990s as one in which money continued to be the biggest stress on the system and also one in which structural and governance changes were made. Restructuring put the presidents in control of NCAA legislation and policies. But Freedman noted that stresses remained: “The NCAA system and member institutions are still struggling to balance the competing demands of local control and centralized organization, higher education and athletics, and internal and external review” (p. 168).

Patberg (2002) studied Division I presidents' perceptions of their involvement in athletics following the 1997 NCAA restructuring. In 1984, the NCAA had established a 44-member Presidents Commission with advisory-only powers. The Knight Commission and others in the early 1990s had called for more direct presidential control in the governance of the NCAA. In 1997, the governance of the NCAA was restructured. Boards of directors, composed of presidents, were created over all divisions. An overall Executive Committee, composed of representatives of the divisional boards, was also created. The process by which legislation was adopted by one-vote-per-institution only at the NCAA Convention was eliminated. Presidents were now the final authority in each division. In Division I (as in each division), legislative proposals were forwarded from institutions and conferences, through cabinets, to the Division I Management Council (composed of athletics administrators and conference commissioners) and then, if passed, to the 18-member Division I Board of Directors. The process was streamlined and year-round, with 18 Division I presidents actively involved and the rest, generally speaking, involved only at the conference and institutional level.

Patberg's research questions asked (a) whether the presidents were as involved in athletics at the national level, conference level, and campus level after the restructuring as they had been before; (b) whether the control of presidents had increased after the restructuring; and (c) whether the presidents wished to be more engaged. Patberg sent a 31-item survey to the presidents of the 306 institutions that had been in Division I prior to the 1997 restructuring; 219 responded (72%). Of these respondents, 151 presidents (70.9% of respondents) had been in their positions before the restructuring.

Patberg's main findings were that although the presidents' perceived levels of involvement had not significantly changed since restructuring, each president viewed his/her own participation more positively than that of his/her peers. The presidents clearly saw themselves in control at the conference and campus levels. Specifically, Patberg found the following:

1. At the national level, 53% of the 219 presidents indicated that they themselves were more involved than before the restructuring (12% were neutral, and 35% indicated less involvement).
2. At the national level, only 31% of the presidents indicated that their peers were more involved since the restructuring (31% were neutral, and 38% indicated that their peers were less involved).
3. At the conference level, 90% of the 219 presidents indicated that they themselves were more involved. Only 38% saw their peers as more involved at conferences (55% were neutral, and 7% called their peers less involved).
4. At the campus level, 90% indicated that they themselves were more involved. Only 33% of the presidents saw their peers as more involved at the campus level (53% were neutral, and 14% indicated their peers were less involved).
5. Regarding presidential influence at the national level, 39% of the 219 presidents indicated that they had as much influence on NCAA legislation as prior to the restructuring (16% were neutral, and 45% indicated they were less influential).
6. Regarding presidential influence at the conference level, 98% indicated that the presidents were the final authority within the conference.

7. Regarding presidential influence at the campus level, 99% of the presidents indicated that they had authority on athletics-governance issues on campus. Further, 97% indicated that they had the support of their boards of trustees on athletics issues.
8. Regarding more engagement, 71% of the 219 respondents indicated a desire to be more engaged in intercollegiate athletics.

Shavers (2004) compared athletics decision making to academic decision making. A case study approach was used. Three criteria--(a) institutional type, (b) tenure of the president, and (c) program composition--were used to narrow a list of potential institutions from 115 to 13. The 13 institutions were then rated on athletics success. Three private, four-year institutions were then chosen as the units of analysis: one high-success institution, one medium-success institution, and one low-success institution. The researcher conducted interviews at each university, using the snowballing technique to select informants. A total of 37 semistructured, in-depth interviews were conducted. Internal and external documents at each institution were also examined.

Shavers' main findings were the following:

1. Division I-A athletics provided an institutional brand.
2. Sports were a source of prominence and pride.
3. The choice between investing in academic programs and investing in athletics programs was perceived as difficult.
4. There was no consistent or unified opposition to the problems in college sports.
5. Presidents had little power or incentive to de-emphasize athletics.
6. Presidents would continue to be constrained in their ability to reform athletics.

Risk Management and Compliance

Athletics compliance can be considered in the broader contexts of risk management in higher education and compliance programs outside higher education, as well as in the specific context of the NCAA's approach to compliance.

Risks in Higher Education

Colleges and universities increasingly face legal and other risks. Santora and Kaplin (2003) observed an enormous growth over the previous 30 years in the volume and complexity of legal issues in higher education. The authors attributed the growth to (a) rising consumer expectations of students and parents; (b) rising compliance challenges in many critical areas of campus life, such as confidentiality of records, safety, and equal opportunity; (c) rising technology-related legal issues regarding intellectual property, personal privacy, and freedom of speech; (d) growth in entrepreneurial activities by institutions as well as individual professors; and (e) an increasingly adversarial mindset, a decrease in civility, and a diminishing level of trust in all societal institutions.

Santora and Kaplin called for a preventive-law approach and encouraged college administrators to (a) review the institution's arrangements for obtaining legal advice; (b) encourage cooperation among leaders in preventive planning; (c) educate constituents about the legal implications of their actions; (d) train compliance officers to identify early warning signs of legal problems; (e) perform regular audits to identify areas of risk; (f) engage leaders in continuing legal planning; (g) establish internal grievance, mediation, and other dispute-resolution mechanisms to forestall formal legal action; and (h) develop a campus culture that values constructive resolution of conflict.

Whitfield (2003) observed constant change in higher education and identified issues transforming higher education: (a) fierce competition for faculty, students, staff, and financial resources; (b) pressure for increased productivity, responsiveness, and accountability as well as decreased cost; (c) increased external scrutiny from government, philanthropists, and governing boards; (d) rapidly increasing entrepreneurial ventures; and (e) new technologies affecting educational delivery and research methods. Whitfield noted the definition of risk offered by the National Association of College and University Business Officers (NACUBO) and PricewaterhouseCoopers: “Risk is any issue that impacts an organization’s ability to meet its objectives” (p. 84). The organization also identified five types of risk: (a) strategic risk, (b) financial risk, (c) operational risk, (d) compliance risk, and (e) reputational risk (Cassidy, Goldstein, Johnson, Mattie, & Morley, 2001).

Focusing on one higher education system in particular, Chaffin (2003) described the institution-wide compliance risk management program of the University of Texas System. The University of Texas System implemented the program, starting in 1998. The Texas System program addressed compliance risk in all operations, including student financial aid, basic research, clinical research, medical billing, environmental health and safety, endowments, student activities, intercollegiate athletics, human resources, and financial matters. Chaffin described the reason for the institution-wide compliance program: “In the mid-1990s, the university system experienced a number of high-profile internal control failures that resulted in the loss of assets, a compromised reputation with the public and with funding authorities, and extensive damage control” (p. 40).

Olivas (2004) also noted the increase in legal cases at universities in the last half of the 20th century and called particular attention to the rise in *nonlegal* legal influences in higher education. Olivas observed that nongovernmental, nonlegal forces such as consortia, insurance carriers, accreditation groups, and sole-source suppliers had statutory, litigative, or regulatory requirements that dictated policy responses.

Regarding consortia, Olivas described athletics conferences as the most formal type of consortium, in which institutions affiliate, share athletic schedules, organize tournaments, and participate in the larger network of national athletic competitions, including championships. Olivas noted contractual and financial effects when institutions change conferences and described the exposure of athletics violations at one university in particular--Southern Methodist University:

That college athletics have legal implications is inarguable. In an extraordinary document issued by a Special Committee of Methodist Bishops, concerning illegal payments to athletes and numerous violations of NCAA regulations by Southern Methodist University, detailed evidence of substantial wrongdoing was made public in 1987. The Report included a pattern of rules violations, recruiting abuses, cash payments to athletes, NCAA sanctions, collusion by trustees and administrators to “keep the lid on,” decisions by the President of the Board (who resigned to become Governor of Texas) to continue illegal payments, an agreement to bribe a disgruntled former employee who threatened to go public, public disclosures of the payments, deceptions towards the faculty NCAA representative, a “strategy of containment and cover-up,” a plan for one person to

become the scapegoat, and other improprieties that the Bishops termed “embarrassing and offensive in many instances.” (p. 24)

Olivas recommended that institutions (a) undertake regular audits of programs for risk assessment and review, and (b) ensure that nonlegal policies and regimes are fully implemented. Olivas also called for research on the governance of the many nonlegal influences on universities.

At the 2006 annual meeting of the National Association of College and University Attorneys (NACUA), Kaplin and Lee presented the top 10 trends in higher education law. These trends illustrate the increasing volume and complexity of the legal issues that institutions face:

10. Liability arising from blogs, chat rooms, file sharing, and other Internet uses and abuses.
9. *Increased attention to the status of athletics and the rights and responsibilities of athletes* [italics added].
8. New attempts to understand and protect academic freedom, within an institution and as a national custom.
7. Continuing tensions over student autonomy, as students seek to shape the college experience to their needs and preferences.
6. *Increasing involvement of university counsel in risk management and making policy* [italics added].
5. More tension between faculty members and the administration as attacks on tenure continue and the use of adjuncts increases.

4. A broadening focus on student diversity, especially socioeconomic status, religious beliefs, national origin and ethnicity, and abilities and disabilities.
3. Continuing concerns regarding national security and how that affects academe.
2. Continuing challenges regarding the operation of education programs overseas and the increased mobility of students and faculty members entering and leaving the United States.
1. More federal and state regulation of higher education. (Selingo & Blumenstyk, 2006, p. 21)

Risks Associated with Athletics

Colleges and universities face risks specifically associated with intercollegiate athletics. The Knight Commission (2001) reported that in the 1980s, 57 of 106 Division I-A institutions (54%) were censured, sanctioned, or put on probation for major violations of NCAA rules. In the 1990s, 58 of 114 Division I-A institutions (52%) were similarly penalized.

The consequences for athletics noncompliance have ranged from embarrassment to resignations, from loss of scholarships to loss of postseason play, and from the return of actual athletics revenue to lawsuits (Cohen, 2005; Independent Investigative Commission, 2004; Lederman, 2004; Suggs, 2005; "U. of Michigan is further penalized," 2003; Wieman, 2004). Bernard (2003), general counsel at the University of Florida, predicted the future hot spots in college athletics as (a) a perceived or real lack of emphasis by institutions on the academic achievement of student athletes; (b) student-athletes' increasingly asserting their legal rights when charged with discipline violations, scholarships are revoked, or drug tests are positive; (c) increasingly complex athletics-

related business arrangements with soft-drink companies, shoe and apparel contracts, Internet broadcasting, web advertising, or trademarks; (d) skyrocketing compensation of coaches; and (e) evolving regulatory oversight in areas such as Title IX, NCAA rules, and taxation.

Bernard advised presidents to (a) hire the right people, particularly the athletics director; (b) implement a system of checks and balances, including rules education, audits, and enforcement; and (c) arrange other checks and balances, including involving faculty and administrators outside the athletics department in its operations and oversight committees. Bernard suggested that a president can provide athletics oversight by communicating expectations and understanding the operation:

A president can exercise personal oversight over the athletics enterprise in two ways: by articulating clearly his or her expectation that the athletics operation will be run within a culture of best practices, and by personally understanding the athletics operation and its role within the college or university. (Bernard, 2003, para. 3)

The NCAA's Approach to Compliance

Intercollegiate athletics has its own history and approach to compliance. Compliance programs are mandated by the NCAA as a means of monitoring rules compliance. NCAA member institutions are required to establish a compliance program to assure that the athletics program adheres to NCAA rules and reports incidents of noncompliance (Buckner, 2004; NCAA, 1996). The NCAA expects institutions to self-report rules infractions and to propose appropriate remedies and penalties. The NCAA

also investigates on its own when it becomes aware of the possibility of serious or widespread infractions.

The NCAA constitution states that the chief executive officer is ultimately responsible for the conduct of the athletics department. Bylaw 2.1.1 of the NCAA Constitution (NCAA, 2005-2006) states,

It is the responsibility of each member institution to control its intercollegiate athletics program in compliance with the rules and regulations of the Association. The institution's chief executive officer is responsible for the administration of all aspects of the athletics program. (p. 3)

Although the president is responsible for compliance, it is generally understood that the design and operation of the compliance program itself will be left up to the athletics director and the athletics compliance officer. The NCAA (1996) stated the following:

Obviously general institutional control is exercised by the chief executive officer of a member institution. However, it is rare that the chief executive officer will make decisions specifically affecting the operations of the institution's athletics program. Instead, the day-to-day duties of operation, including compliance with NCAA rules, will have been delegated to subordinates either by specific action or by the creation of appropriate job descriptions. More, it is usually left to senior subordinates, such as the director of athletics, further to delegate various duties regarding compliance with NCAA rules. (p. 1)

The NCAA's approach to compliance can be seen in (a) its principles of institutional control; (b) C.O.D.E., its outline of key program elements; and (c) the information included in its program audits.

In its *Principles of Institutional Control*, the NCAA (1996) stated the principles that define institutional control. An institution demonstrates institutional control of athletics when

1. Formal institutional policies and procedures for compliance are in place.
2. Policies and procedures are being monitored and enforced, and are established in such a way as to deter violations before they occur.
3. Communication of compliance procedures occurs clearly and regularly.
4. Steps are taken to alter a compliance system when there are indications the system is not working.
5. After learning of a violation, the institution takes swift action.
6. The institution makes clear that violations of NCAA rules will result in discipline and possible discharge.
7. The institution makes clear that individuals have the responsibility to self-report any NCAA rules violation without fear of negative consequences.
8. Meaningful compliance education programs exist for personnel engaged in athletically related operations. (NCAA, 1996)

C.O.D.E. is the NCAA's acronym for the key elements of an effective compliance program: (a) communication, (b) organization, (c) documentation, and (d) evaluation (NCAA, 2001). A compliance program should contain these components of *communication*:

- The institution's commitment to rules compliance is demonstrated through oral and written communications with various campus constituencies.
- Key compliance tasks and responsibilities are communicated clearly to individuals with compliance responsibilities.
- In each department that plays a role in completing a compliance task, an individual has been designated to communicate with other departments.
- The institution has developed a comprehensive rules education program that includes providing rules interpretations to campus constituencies.

In the area of *organization*, a compliance program should contain these components:

- Senior-level institutional administrators assume leadership roles in establishing the institution's commitment to compliance initiatives.
- The institution centrally coordinates its rules compliance program.
- The institution is organized to ensure that rules compliance is a shared responsibility requiring the involvement of individuals from outside the athletics department.
- Key tasks and responsibilities have been identified and assigned to appropriate individuals in each area of compliance the institution considers critical and sensitive.
- Roles of key compliance personnel (chief executive officer, director of athletics, faculty athletics representative, compliance coordinator, athletics committee/board) are defined clearly and understood.

- A formal process for conducting investigations of alleged rules violations and reporting confirmed rules violations to the NCAA and conference office has been established.

In the area of *documentation*, the program should contain these components:

- Policies and procedures relating to compliance systems are documented clearly and available.
- Each key compliance area maintains the supporting documentation necessary to substantiate that institutional policies and procedures relating to compliance systems are being followed properly.
- Responsibilities of key participants in compliance areas are reflected in job descriptions, letters of appointment and contracts.
- The institution states in writing its commitment to rules compliance and widely distributes this document to appropriate campus and external constituencies.

In the area of *evaluation*, a compliance program should contain these components:

- Senior-level administrators approve policies and procedures in critical and sensitive compliance areas.
- Institutional staff members (inside and outside athletics) are evaluated periodically on their rules compliance responsibilities.
- Mechanisms are in place to ensure continuing and regular administrative oversight in key compliance areas.
- All aspects of the rules compliance program are subject to periodic review by some institutional authority outside the athletics department. (NCAA, 2001)

The third type of information related to NCAA compliance programs is the program audit. According to NCAA rules, an institution should have an outside audit every four years. (This is typically done by the conference to which an institution belongs.) An audit generally includes a pre-audit questionnaire and an on-site visit. Feedback is later provided in writing. The pre-audit questionnaire follows the topical structure of the NCAA manual (ethical conduct, personnel, amateurism, recruiting, academic eligibility, financial aid, awards and extra benefits, and playing and practice seasons) and contains about 100 questions. The on-site audit typically includes interviews with the compliance professionals as well as athletics administrators and the university president (NCAA, 2001).

The NCAA's approach to compliance, however, does not emphasize risk assessment. Electronic searches of the NCAA web site and the *2005-06 NCAA Division I Manual* identified no instances of the terms *risk assessment* or *risk analysis*. The terms are not mentioned in (a) the NCAA's Principles of Institutional Control (NCAA, 1996), (b) C.O.D.E., the NCAA's description of compliance-program elements (NCAA, 2001), (c) the NCAA's prereview questionnaire, or (d) NCAA regional compliance seminar training materials. The handouts of the session entitled "Institutional Control Defined" in the 2005 NCAA Regional Compliance Seminars do not include either term.

Approaches to Compliance Outside Higher Education

The 1990s saw the creation of models and frameworks for what constitutes an effective compliance program in areas outside higher education (and thus outside intercollegiate athletics). These outside compliance approaches can provide a useful lens for observing intercollegiate athletics compliance. In particular, three influential

compliance approaches have been (a) the 1991 U.S. Sentencing Guidelines for Organizations, (b) the Committee of Sponsoring Organization's (COSO) *Internal Control-Integrated Framework*, and (c) the Office of Inspector General's (OIG) Compliance Program Guidance for Hospitals.

These compliance-program frameworks spawned much writing about the need for and the elements of compliance programs. Pelliccioni's literature review process in 1999 identified 18,381 articles that addressed compliance programs and compliance effectiveness in the health care, environmental, banking, defense, and insurance industries (Pelliccioni, 2002).

The 1991 Sentencing Guidelines. The Sentencing Guidelines for Organizations were issued by the U.S. Sentencing Commission in 1991. The purpose was to promote voluntary compliance programs and make the punishment of corporations more uniform and severe by offering reduced punishment for companies with meaningful programs in place. With the guidelines, the government provided for the first time a model for due-diligence compliance efforts. The guidelines were originally something of an experiment but became widely influential. Kaplan (2004) noted that events such as the Caremark case in the Delaware Court of Chancery, which cited the Sentencing Guidelines and ruled that corporate directors could be liable for failing to exercise compliance-related oversight, created a broad impact.

The 1991 Sentencing Guidelines stated that meaningful compliance programs should include seven elements: (a) adequate compliance standards and procedures; (b) effective high-level compliance oversight; (c) careful delegation and due care in hiring employees; (d) effective training and education; (e) effective monitoring of the program,

strong internal audit, and nonretaliatory internal reporting systems; (f) appropriate responses to violations; and (g) corrective disciplinary action, as appropriate (U.S. Sentencing Commission, 1991).

In 2004 the U.S. Sentencing Commission updated the Sentencing Guidelines. The newer guidelines indicated that an institutional culture of compliance must be evident. Thus, a compliance program must also (a) seek to identify violations of law or rule, (b) train and educate high-level officials and others on standards and obligations, (c) incorporate compliance as a behavioral norm, (d) include active leadership by senior managers and trustees, (e) identify and prioritize issues on the basis of risk assessment, and (f) emphasize ethics (Desio, 2004; U.S. Sentencing Commission, 2004).

COSO's Internal Control--Integrated Framework. The Committee of Sponsoring Organizations (COSO) was formed in 1985 by five associations: (a) the American Accounting Association, (b) the American Institute of Certified Public Accountants, (c) Financial Executives International, (d) The Institute of Internal Auditors, and (e) the National Association of Accountants (now the Institute of Management Accountants). COSO sponsored the National Commission on Fraudulent Financial Reporting (popularly known as the Treadway Commission after its chairman, James C. Treadway, Jr.). The Treadway Commission studied the causes of fraudulent financial reporting and developed recommendations.

In 1992, the Treadway Commission produced COSO's *Internal Control--Integrated Framework* for financial reporting (Committee of Sponsoring Organizations [COSO], 1992). In the framework, internal control was defined as "a process, effected by an entity's board of directors, management, and other personnel, designed to provide

reasonable assurance regarding . . . the effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws” (COSO, 1992, para. 5). Internal control was described as having five components: (a) control environment, (b) risk assessment, (c) control activities, (d) information and communication, and (e) monitoring.

Control (meaning, control-conscious) environment factors included (a) the integrity and competence of people, (b) management’s philosophy and operating style, (c) assignment of authority, (d) organization and development of people, and (e) the attention of the board of directors. Risk assessment included (a) the identification and analysis of relevant risks and (b) the determination of how the risks should be managed. Control activities included (a) approvals, (b) authorizations, (c) verifications, (d) reconciliations, (e) reviews, (f) security, and (g) segregation of duties. Information and communication included (a) operational, financial, and compliance reports; (b) internal and external communication; and (c) communication of control responsibilities. Monitoring included (a) ongoing monitoring in the course of operations, (b) separate evaluations, or (c) a combination of both.

It can be noted that Crawford et al. (2001), in describing the compliance approach in the University of Texas System, suggested that great similarities existed between the 1991 Sentencing Guidelines and COSO’s *Internal Control--Integrated Framework*. In their view, the Sentencing Guidelines represented a strengthening and emphasis of activity areas that were also identified by COSO.

In 2004, in response to headline-making corporate scandals, COSO produced a second framework (COSO, 2004). The second framework expanded on the first and

addressed corporate governance and risk management. The framework addressed risks related to an organization's strategic, operations, reporting, and compliance objectives. The COSO enterprise risk-management framework expanded the number of components to eight, adding three new ones: (a) objective setting, (b) event identification, and (c) risk response. Objective setting meant that objectives must be in place so that the risks associated with them can be assessed. Event identification meant that internal and external events related to the objectives must be identified, distinguishing between risks and opportunities. Risk response meant that management must identify its risk tolerances and risk appetite and select risk responses (avoiding, accepting, reducing, or sharing risk) for the identified risks (COSO, 2004).

OIG's Compliance Program Guidance for Hospitals. In the early 1990s, estimates were that at least 10% of all healthcare dollars were being lost to fraud (Pelliccioni, 2002). In response, in 1998 the Office of Inspector General (OIG) issued the Compliance Program Guidance for Hospitals. The guidance was based on the 1991 Sentencing Guidelines. OIG's guidance stated that, at a minimum, comprehensive compliance programs in hospitals should include seven elements: (a) standards of conduct, (b) designation of a compliance officer and a compliance committee, (c) effective training and education, (d) effective lines of communication (such as access to the compliance officer and hotlines), (e) standards enforced through well-publicized disciplinary guidelines, (f) auditing and monitoring, and (g) response to detected offenses and corrective action (Office of Inspector General [OIG], 1998).

In 2005 OIG issued supplemental guidance to hospitals on compliance programs, providing healthcare-specific details and reiterating the key elements of a compliance

program as (a) designation of a compliance officer and compliance committee; (b) development of compliance policies and procedures, including standards of conduct; (c) developing open lines of communication; (d) appropriate training and education; (e) internal monitoring and auditing; (f) response to detected deficiencies; and (g) enforcement of disciplinary standards (OIG, 2005).

Research on Compliance Outside Higher Education

Several studies outside higher education have examined the prevalence and relationships of various compliance-program elements. Weaver, Trevino, and Cochran (1999) surveyed ethics officers of 1,000 Fortune 500 (industrial and service) corporations listed in 1995, receiving 254 responses (26% response rate). The survey inquired about elements of ethics and compliance programs, including (a) ethics policy statements, (b) ethics officers, (c) ethics offices, (d) ethics hotlines, (e) the chief executive officer's (CEO) involvement in ethics, and (f) ethics training and communication.

Regarding policy statements, 98% of the 254 respondents reported having a formal ethics policy document. On ethics officers, 54% of respondents reported having a single officer specifically charged with ethics. With regard to ethics offices, 30% of respondents reported a specific department expressly dealing with ethics. On hotlines, 51% of respondents reported some type of telephone-based system for employees to report issues.

Regarding CEO involvement, 13% of the 254 ethics officers reported seven or more ethics-related conversations with the CEO per year, 21% reported three to six conversations per year, and 46% reported one to two conversations per year (and 20% reported no conversations). On ethics meetings, 15% of CEOs attended four or more ethics-focused meetings per year, 23% attended two or three meetings per year, and 30%

attended one meeting (and 32% attended no meetings). On ethics communications, 5% of CEOs sent out company-wide, written communications on ethics more often than annually, and 46% sent messages once per year (and 38% did so every few years and 11% never sent written ethics communications).

With regard to communication, less than one third of the 254 respondents reported that employees received ethics messages (other than the code or policy) more than once per year. Regarding training, only about one fourth of respondents reported that employees received annual ethics training.

The authors concluded that although the great majority of companies had ethics policies, the support of the policies varied widely, indicating that companies had perhaps adopted low-cost, symbolic aspects of ethics management (Weaver et al., 1999).

Trevino, Weaver, Gibson, and Toffler (1999) investigated the relationship between employee perceptions of ethics/compliance program factors and their perceptions of ethics/compliance outcomes. The researchers surveyed about 10,000 randomly selected employees at six American companies.

The survey asked about the employees' perceptions of compliance-program factors, including program orientation, formal program characteristics, and ethical culture. *Program orientation* referred to whether the program was perceived by employees as (a) values based (based on organizational ethical values), (b) compliance based (based on preventing or detecting violations of laws or rules), (c) oriented toward satisfying external stakeholders (such as customers and the public), or (d) oriented toward protecting top management from blame. *Formal program characteristics* referred to (a) employees' awareness and use of the organization's code of conduct and report mechanism, as well as

(b) ethics included in performance appraisals and (c) program follow-through. *Ethical culture* referred to elements such as (a) leadership, (b) reward systems, (c) communication about ethics, and (d) perception of fairness and care.

The survey also asked about the employees' perceptions of seven ethics/compliance outcomes in their organizations: (a) unethical or illegal behavior observed during the past year, (b) employee awareness of ethical or illegal issues at work, (c) ethics/compliance advice-seeking within the company, (d) delivering of bad news to management, (e) reporting of ethics/compliance violations, (f) better decision making in the company because of the ethics/compliance program, and (g) employee commitment to the organization. The respondents' perceptions about compliance-program factors were correlated with their perceptions about compliance outcomes to identify the relationships between ethics/compliance management and outcomes.

Given the large number of respondents, the following Pearson product-moment correlations were all reported as statistically significant. The authors found that a compliance program should be perceived as values based. For example, a *values orientation* positively correlated with *employee commitment* ($r = .59$) and *better decision making* ($r = .56$). The perception of a program as compliance oriented was also found to be positively related to outcomes. For example, a *compliance orientation* positively correlated with better decision making ($r = .49$).

Regarding formal program characteristics, the authors found that a compliance program should be perceived as consistent in its policies and active in follow-up on reports, and ethics should be a part of performance appraisals. For example, *consistent policies/actions* positively correlated with employee commitment ($r = .69$) and better

decision making ($r = .67$) and negatively correlated with unethical conduct ($r = -.56$). *Formal report mechanism* was positively correlated with better decision making ($r = .54$). Similarly, *follow-up on reports* positively correlated with better decision making ($r = .60$) and *advice seeking* ($r = .59$). *Performance appraisal* was also positively correlated with better decision making. Interestingly, the authors found having a code of conduct to be less related to outcomes than expected. For example, *code familiarity's* highest positive correlation was an r of $.27$ with better decision making. *Refer to code's* highest positive correlation was an r of $.26$, also with better decision making.

Regarding ethical culture, the authors found cultural factors to be influential, with leadership, fair treatment, talk about ethics, and the perception that ethical behavior is rewarded among the significant factors. For example, *executive leadership* was positively correlated with employee commitment ($r = .70$) and negatively correlated with unethical conduct ($r = -.52$). *Supervisory leadership* was positively correlated with *okay to deliver bad news* ($r = .67$) and negatively correlated with unethical conduct ($r = .55$). *Fair treatment* was positively correlated with employee commitment ($r = .76$) and okay to deliver bad news ($r = .72$) and negatively correlated with unethical conduct ($r = -.54$). *Ethics talk* was positively correlated with better decision making ($r = .62$). *Ethical behavior rewarded* was positively correlated with employee commitment ($r = .63$) and okay to deliver bad news ($r = .61$) and negatively correlated with unethical conduct ($r = -.54$). *Employee focus* was positively correlated with employee commitment ($r = .67$).

Two harmful cultural factors were the perceptions of unquestioning obedience to authority and an organizational focus on self-interest. For example, *obedience to authority*

was negatively correlated with okay to deliver bad news ($r = -.62$). *Self-interest focus* was negatively correlated with employee commitment ($r = -.57$).

The authors' recommendations included (a) identifying employee perceptions about ethics and compliance, (b) building a solid ethical culture, (c) creating a values-based program that also incorporated compliance accountability, and (d) focusing on program follow-through (Trevino et al., 1999). Ironically, the study by Weaver et al. (1999) showed that most companies had adopted formal code-of-conduct policies, whereas the study by Trevino et al. (1999) indicated that formal codes of conduct were not strong program factors.

In Medicare-Medicaid compliance in healthcare, Pelliccioni (2002) studied (a) the extent of compliance-program implementation, (b) the relationships between compliance-program elements and compliance outcomes, and (c) the relationships among the compliance-program elements themselves. The compliance-program elements were those described in the 1991 Sentencing Guidelines: (a) standards and policies, (b) oversight responsibility, (c) education and training, (d) lines of communication, (e) auditing and monitoring, (f) enforcement and discipline, and (g) response and prevention. The compliance outcomes were compliance awareness and billing accuracy.

With the help of two expert panels, Pelliccioni developed an Indicator Questionnaire to measure the extent to which compliance programs were implemented. (The Indicator Questionnaire contained 119 questions tied to 137 compliance indicators, which in turn were tied to the seven program elements.) The expert panels also identified awareness items for an Employee-Awareness Questionnaire.

Thirty hospitals were randomly selected (8 small, 13 medium, and 9 large). At each hospital, (a) the Indicator Questionnaire was administered in person to four to seven executives and managers, (b) the Employee Awareness Questionnaire was self-administered by 25 randomly selected staff employees and 25 randomly selected physicians, and (c) 100 in-patient and 100 out-patient Medicare-Medicare invoices were randomly selected and audited for accuracy.

Pelliccioni found a mean score among the hospitals of 53.5% on the Indicator Questionnaire measuring the extent of program implementation (versus a perfect score of 100% implementation of the indicators identified in the literature survey and by the expert panels). Pelliccioni noted,

First, in contrast to the ‘zero tolerance’ standard historically employed by the government for health care providers, the mean performance score on all of the seven elements collectively was 53.51%, with the best performing hospital achieving 67.68% correct responses and the worst performing hospital obtaining 37.60% correct responses. Perhaps the most valuable implication of this finding is to highlight how imperative it is for the government and industry to come to terms with the disparity between what is being expected, what is being achieved and what is a reasonable expectation. (pp. 259-260)

Regarding the extent of implementation of each of the seven program elements (across the hospitals), response and prevention had the highest mean score (80.4%), followed by oversight responsibility (72.4%), education and training (57.8%), auditing and monitoring (51.5%), lines of communication (51.1%), enforcement and discipline (51%), and standards and policies (45.5%).

The mean score by (nonphysician) employees on the Employee Awareness Questionnaire was 60.8%; 358 of 750 employees (48%) responded. The mean score by physicians on the questionnaire was 42.1%; 166 of 750 physicians (22%) responded.

The mean percent correct on billing accuracy was 57.2% (with mean inpatient billing accuracy of 54.6% and mean outpatient billing accuracy of 59.7%). (One-way analyses of variance showed no effects of organization size or implementation period on awareness or invoice accuracy.)

Regarding relationships among the seven compliance program elements, analyzing the data at the hospital level ($N = 30$), Pelliccioni found two sets of high Pearson product-moment correlations, perhaps indicating that the seven program elements were not mutually exclusive concepts.

In one set of relationships, the *lines of communication* element was positively correlated with *enforcement and discipline* ($r = 0.97$). The lines of communication element was also positively correlated with *oversight responsibility* ($r = 0.83$). Pelliccioni suggested that clear lines of communication regarding problems could really be a part of enforcement and discipline. Also, lines of communication and oversight responsibility may both address communication, differing only on mechanisms versus infrastructure.

In a second set of relationships, *training and education* was negatively correlated with *auditing and monitoring* ($r = -0.82$). Training and education was also negatively correlated with *standards and policies* ($r = -0.76$). In explaining the negative correlations, Pelliccioni suggested that either (a) organizations might struggle both to train *and* memorialize and monitor (given the resources required to do both) or that (b) implementing some aspect of one of these elements negatively affects the other.

Multiple regression analyses were then performed to identify which elements were related to the dependent measures. Response and prevention was significantly related to *inpatient billing accuracy*, explaining about 16% of the variance ($R^2 = .1563$). Auditing and monitoring was significantly related to *outpatient billing accuracy*, explaining about 15% of the variance ($R^2 = .1529$).

Analyzing the data at the respondent level (N = 204), Pelliccioni used factor analysis to determine whether seven distinct elements actually existed. Interestingly, nine factors emerged (and were named as follows): (a) compliance-program risk factors 1 (e.g., standards of conduct and OIG guidance), (b) development and updating of the compliance program, (c) regulatory and statutory risk factors, (d) billing and coding risk factors, (e) reporting mechanism protocols, (f) type of reporting mechanism, (g) protocol for accuracy and dissemination of regulatory mandates, (h) compliance-program risk factors 2 (e.g., Medicare and Medicaid statutes), and (i) compliance officer reporting structure.

After inconsistent items were removed, multiple regression analyses were conducted among the factors and the dependent variables. The factor *protocol for accuracy and dissemination of regulatory mandates* was significantly related to *employee awareness*, explaining about 27% of the variance ($R^2 = .273$). The factors *type of reporting mechanism* and *protocol for accuracy and dissemination of regulatory mandates* together were significantly related to *inpatient billing accuracy*, explaining about 24% of the variance ($R^2 = .242$) (Pelliccioni, 2002).

Risk Management and Compliance in Higher Education

Kaplin and Lee (1995) described the four most common methods of risk management in higher education as (a) risk avoidance, (b) risk control, (c) risk transfer,

and (d) risk retention. Risk avoidance eliminates activities or avoids creating activities that involve risk. Risk control defines and structures activities to reduce or limit risk. Risk transfer moves risk to other parties through methods such as insurance, indemnification agreements, and releases and waivers. Risk retention accepts risk and prepares for legal liability through self-insurance.

Risk assessment has been noted as a fundamental component of compliance in higher education. Crawford et al. (2001) described the approach to risk assessment in the University of Texas System's institutional compliance program. Risk assessment was one of the four key activities during the first six months of program implementation, together with (a) establishing the compliance infrastructure, (b) training the compliance infrastructure staff, and (c) developing a standards-of-conduct guide and compliance training program. The primary purpose of the initial risk assessment was to identify the significant compliance risks at the institutional level. The authors described the specific steps of risk assessment as follows:

1. Risks were identified in bottom-up workshops in work units (the lowest level of budgeted departments within the organization). In two-hour sessions, 12-15 participants identified risks through brainstorming. Then, for each risk, the participants measured its potential impact (as high, medium, or low), and its probability of occurrence (as high, medium, or low). The risks were then prioritized (high-high, high-medium, and so forth).
2. The prioritized risk inventories from work-unit workshops were then prioritized by risk area. The 15 risk areas on the academic side in the Texas System were (a) student welfare, (b) funding formulas, (c) human resources,

(d) fiscal management, (e) environment health and safety, (f) accreditation, (g) basic research, (h) grants and contracts, (i) IRS, (j) *intercollegiate athletics*, (k) privacy of information, (l) student financial aid, (m) gift restrictions, (n) information resources, and (o) safeguarding assets. Risk-area experts then reviewed and reprioritized the lists of risks to produce a prioritized list of risks for each risk area.

3. An institutional compliance committee then determined the risks with the greatest significance for the institution as a whole. This list of critical institutional risks was communicated to management and became the focus of the institutional compliance program.
4. Managing each risk involved (a) the designation of one responsible party; (b) a monitoring plan with operating controls, supervisory controls, and oversight controls; (c) a training plan; and (d) a reporting plan.
5. Risk-assurance strategies included certification, oversight controls, internal audit controls, and sometimes external-expert peer review.
6. Responding to noncompliance included having (a) policies and procedures that described the means of identifying instances of noncompliance and the appropriate remediation, and (b) a mechanism for reporting instances of noncompliance without retaliation.

Chaffin (2003) described the implementation phases of the compliance program at each institution in the Texas System as (a) program design and infrastructure, (b) communication and training, (c) management of mission-critical compliance risks, and (d) appraisal and renewal. Program design and infrastructure involved (a) establishing

program objectives, (b) developing an action plan, (c) creating an institutional compliance officer position, (d) establishing an institutional compliance committee, and (e) creating a separate compliance function. Communication and training involved (a) producing a standard-of-conduct guide, (b) providing web-based compliance training for all employees (70,000 across the Texas System), and (c) instituting a confidential reporting mechanism. Managing mission-critical compliance risks involved (a) identifying risks in risk areas (such as student financial aid, athletics, and human resources); (b) selecting the compliance risks most critical at the institutional level; and (c) addressing the critical risks by designating a single responsible party for each risk and developing a monitoring plan, training plan, and reporting plan. The appraisal and renewal phase of the compliance program involved (a) addressing instances of noncompliance, (b) providing ongoing assurance regarding the management of the critical risks, and (c) conducting periodic assessments of the program.

Whitfield (2003), in a qualitative study, interviewed leaders at a medical research facility, a financial-services company, two research universities, and three other top-50 universities to investigate the applicability of enterprise-wide risk-management programs to higher education. Enterprise-wide risk management referred to programs that address all types of risk (strategic, financial, operational, compliance, and reputational). The informants served either as president, chief business officer, dean, executive vice president, chief operating officer, chief operational risk officer, chief compliance officer, or chief audit executive. Whitfield inquired about the strategy, design, metrics, and barriers to success of the programs in effect at the institutions.

Whitfield concluded that the corporate sector's enterprise-wide risk-management framework is transferable to higher education. Whitfield's interviews indicated that a successful enterprise-wide risk-management program required (a) that trustees and presidents accept that an environment of constant change produces risk and set a risk-conscious tone at the top, (b) that the approach be proactive rather than crisis reactive, (c) that a risk-champion and risk-management committee be created, and (d) that the perspective be institution-wide rather than piece-meal. Whitfield also identified the importance of institution-wide risk assessment as well as of awareness training. The barriers to success identified were (a) risk's not being on the agenda of executives and trustees, (b) cultures and organizational structures that prevent an institution-wide perspective, and (c) a lack of proven metrics.

Risk assessment has been applied in other fields outside higher education. For example, Williams, Walker, and Dorofee (1997) described the use of risk assessment in managing software projects. A list of risk statements was generated. The format for risk statements included a condition and at least one consequence (such as "Potential slip in module translation schedule; will impact rest of system coding", p. 78). Risk statements were evaluated on potential impact (high, medium, or low) and probability (high, medium, or low). The risk statements were then classified by type and ranked in priority order. Risk-mitigation plans were then developed for each risk (or risks were accepted without mitigation). Risk management included monitoring and altering plans as needed, "dropping to a watch-only mode at a specific threshold, and closing the risk when it no longer exists" (Williams et al., 1997, p. 80).

In another example, Delabbio et al. (2003) described the use of risk assessment in the implementation of fuel-cell-powered mining equipment in a mine. A likelihood-impact matrix was used to rate risks (see Figure 1). Potential impact was rated on a scale of 1 to 5 (negligible, minor, moderate, major, and catastrophic). Likelihood was also rated on a scale of 1 to 5 (rare, unlikely, moderate, likely, and almost certain). Extreme risks were (a) those with catastrophic impact and moderate, likely, or almost-certain likelihood and (b) those with major impact and almost-certain likelihood. Major risks were (a) those with catastrophic impact but unlikely or rare likelihood, (b) those with major impact and likely or moderate likelihood, (c) those with moderate impact and likely or almost-certain likelihood, and (d) those with minor impact but almost-certain likelihood. Extreme and major risks were considered first priority, requiring immediate action. The risks were also analyzed qualitatively in terms of existing controls, precision with which the risk was understood, and intervention difficulty.

In a third example, Alexander and Marshall (2006) described the use of risk assessment in an extension program to help farmers with business planning. Workshop participants were asked to think of risks their businesses faced and to evaluate the probability and consequence of each event on a scale of 1 to 10. For example, the event of a 35-year-old business owner's passing away might be rated very low in probability, at 1, but very high in consequences, at 10. Participants were taught the options of avoiding, reducing, retaining, or transferring the risk (Alexander & Marshall, 2006).

Likelihood-Impact Matrix						
Likelihood		Impact				
		1	2	3	4	5
		Negligible	Minor	Moderate	Major	Catastrophic
5	Almost certain	Medium	Major	Major	Extreme	Extreme
4	Likely	Minor	Medium	Major	Major	Extreme
3	Moderate	Minor	Medium	Medium	Major	Extreme
2	Unlikely	Minor	Minor	Medium	Medium	Major
1	Rare	Negligible	Minor	Minor	Medium	Major
		No action required				
		Manage as second priority				
		Immediate action required prior to proceeding with demonstration, manage as first priority				

Figure 1. A likelihood-impact matrix for assessing risks in the use of mining equipment, showing how risks are prioritized on the basis of potential impact and likelihood of occurrence. In this matrix, risks with rare likelihood are still considered major if their impact would be catastrophic. Conversely, risks with minor impact are also considered major if their likelihood is almost certain. From “Fuelcell risk assessment, regulatory compliance, and implementation of the world’s first fuelcell-powered mining equipment at Placer Dome--Campbell Mine,” Delabbio et al., 2003, *Natural Resources Canada (NRCAN)*, p. 5. Copyright 2002 by Hatch. Reprinted with permission.

Sheldon and Hoffman (2005) studied the prevalence of institution-wide ethics and compliance programs in four-year colleges and universities. The authors surveyed 2,399 college and university presidents and chancellors, with a low response rate of 19% (450 respondents). The findings indicated that whereas 79% of the 450 respondents thought

they should have an institution-wide ethics or compliance program, only 43% had one. Of the schools with an institution-wide program, (a) 92% of the 450 respondents had a written statement of core values, and 91% had a code of ethics or code of conduct; (b) 88% applied their program to administration, and 85% applied their program to faculty; (c) 80% monitored ethics or compliance issues; (d) 60% offered ethics or compliance training to employees; (e) 56% had an ethics or compliance officer; (f) 42% had an ethics or compliance committee; and (g) 33% had a helpline or hotline for reporting misconduct or seeking advice.

In a University of Washington study, the authors presented an overview of compliance and risk management, reviewed models for such programs in higher education, and described four case studies (University of Washington, 2006). In the study, risks were defined as the uncertainties that may impact an institution's ability to reach its goals. Both risk management and compliance were described as consisting of four iterative actions in a risk cycle: (a) identification, (b) assessment, (c) mitigation, and (d) monitoring (see Figure 2).

Risk assessment was described as focusing on a limited number of risks with a high likelihood of occurrence and a high impact on the institution. Risk maps were presented as a tool for visualizing risks on the basis of their potential impact and likelihood of occurrence (see Figure 3). Completed by knowledgeable campus groups, risk maps can serve as a basis for allocating attention and resources.

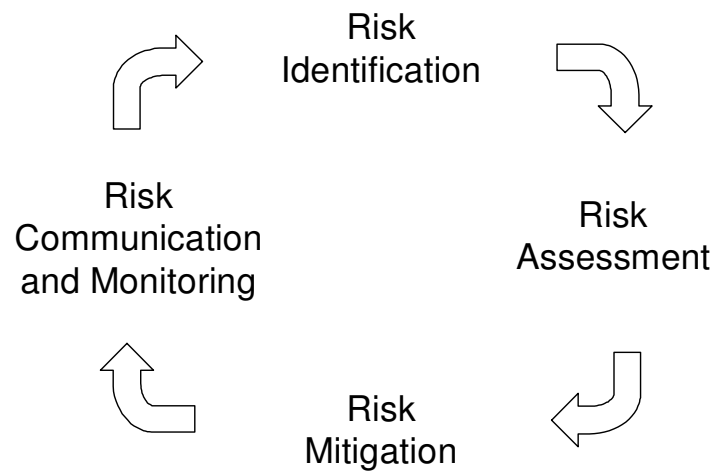


Figure 2. Risk cycle showing risk management and compliance as consisting of four iterative actions: identification, assessment, mitigation, and monitoring. From “Collaborative enterprise risk management,” 2006, University of Washington, Seattle.

Transferring risk through insurance and addressing risks in individual functions (such as the safety of human subjects in research) were described as basic approaches to risk. Institutional compliance was presented as a more advanced approach. Two models were offered as possible frameworks for institutional compliance at a university: centralized compliance and enterprise risk management. Centralized compliance was described as institution-wide but covering only compliance risks. The seven elements of the U. S. Sentencing Guidelines were noted as a commonly used model for a good compliance program. They are as follows: (a) compliance standards and procedures, (b) the role of organizational leadership, (c) employee screening, (d) training and education, (e) internal monitoring and auditing (including confidential reporting), (f) discipline and incentives, and (g) response and prevention.

Three parameters were offered for determining the appropriate framework for a compliance or risk-management program at a given university: (a) scope, (b) organization, and (c) philosophy. Scope referred to compliance risk only versus all types of risk. Organization referred to the desired organizational structure. Organizational decisions included whether to have a central compliance officer, a separate central office, and decentralized compliance officers in operating units, as well as the desired reporting relationships, means of coordination, and enforcement authority. Philosophy referred to the preferred approach of the program: a control model versus a collaborative model. A control model was described as focusing on reporting and outside monitoring, with the compliance officer in an enforcement role. A collaborative model was described as focusing on flexible approaches and internal monitoring, with the compliance officer in an advising role.

Stanford University was described as collaborative and moving toward full enterprise risk management. Its approach was observed to include (a) the use of risk assessments, (b) assignment of a responsible manager to each high-priority risk, (c) a compliance committee, (d) involvement at the board of trustees' level, and (e) a director of compliance operating in a facilitative and advisory role.

The University of Texas System was described as focusing on compliance risk and operating in a corporate style. Its approach was observed to include at each university (a) an institutional-compliance officer, (b) an executive committee, (c) risk assessment, (d) compliance training, (e) single-party responsibility for each risk, (f) controls and monitoring, and (g) a formal assurance system.

The University of Minnesota was described as focusing on compliance risk and operating with a collaborative approach. Its approach was observed to include (a) emphasis on the U.S. Sentencing Guidelines, (b) a compliance partner responsible for compliance in each risk area, (c) compliance program reviews in each risk area, and (d) a compliance officer operating in an assistance role. The university was described as beginning to expand its program to include other risks in addition to compliance. As shown in Figure 4, the compliance officer used a *heat map* to illustrate for senior leaders the risks faced by the university (T. Schumacher, personal communication, June 6, 2006). The three bands show risks in low (light), medium (darker), and high (darkest) bands. Athletics can be seen in the darkest high-risk band.

The University of Pennsylvania was described as focusing on compliance risks and operating in a corporate style initially but in a more collaborative style later. Its approach was observed to include (a) an office of institutional compliance, (b) *hub and spoke* collaboration with compliance functions in individual units, and (c) an officer responsible for audit, compliance, and privacy.

As a summary of the four case studies, the University of Washington study included a matrix with two dimensions: the scope of risks addressed and philosophical approach (see Figure 5). *Scope* referred to compliance only versus all (enterprise) risks. *Philosophical approach* referred to control versus collaboration. The control approach was seen as focusing on structure, with (a) clear accountability, (b) a separate compliance organization, (c) heavy use of monitoring, and (d) serious consequences for poor compliance. The collaborative approach was presented as focusing on process and outcomes, with (a) informal leadership roles, (b) integration into management

responsibilities, (c) use of compliance committees, and (d) encouragement of open communication.

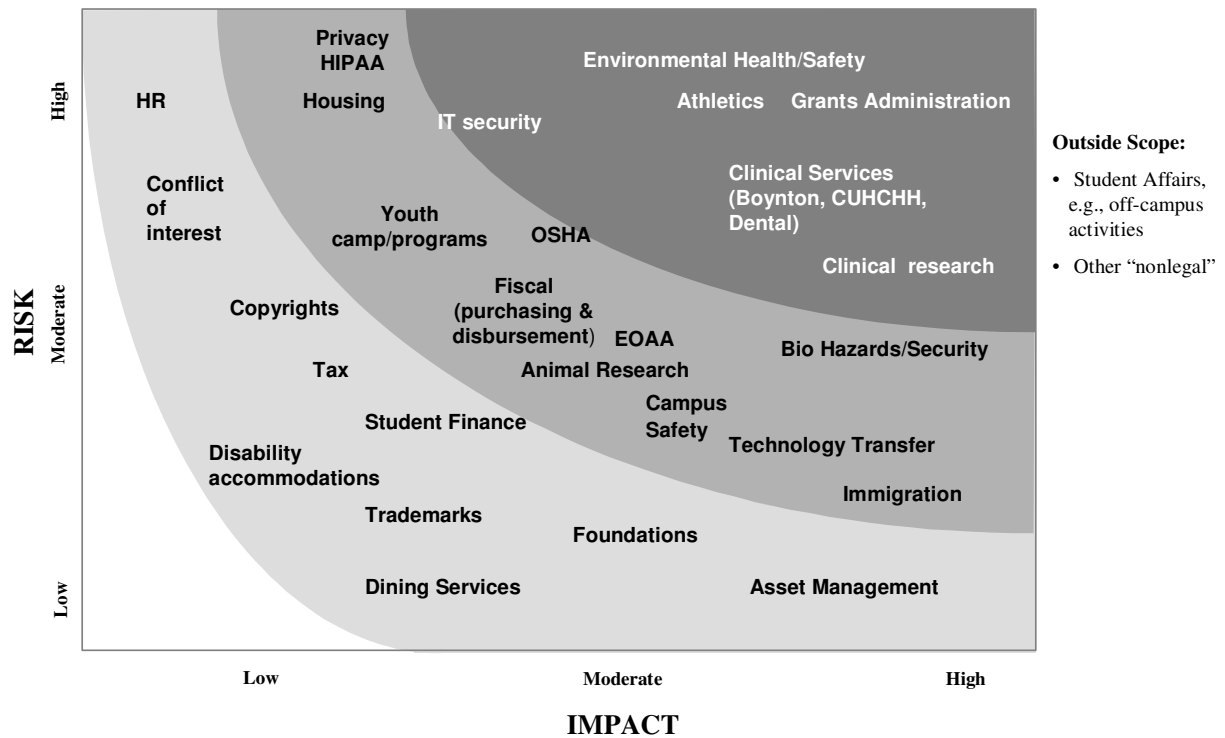


Figure 4. A University of Minnesota compliance risk *heat map* showing institutional compliance risks rated on impact and risk (likelihood) and presented as low-risk, medium-risk, and high-risk bands. Athletics can be seen in the high-risk band. From T. Schumacher, personal communication, June 6, 2006. Reprinted with permission.

The matrix showed (a) Texas and Pennsylvania as being focused on compliance only with a control approach, (b) Minnesota as focused on compliance only with a more collaborative approach, and (c) Stanford as focused on enterprise risk management with a collaborative approach. The study’s authors recommended Stanford’s approach as desirable for Washington (University of Washington, 2006).

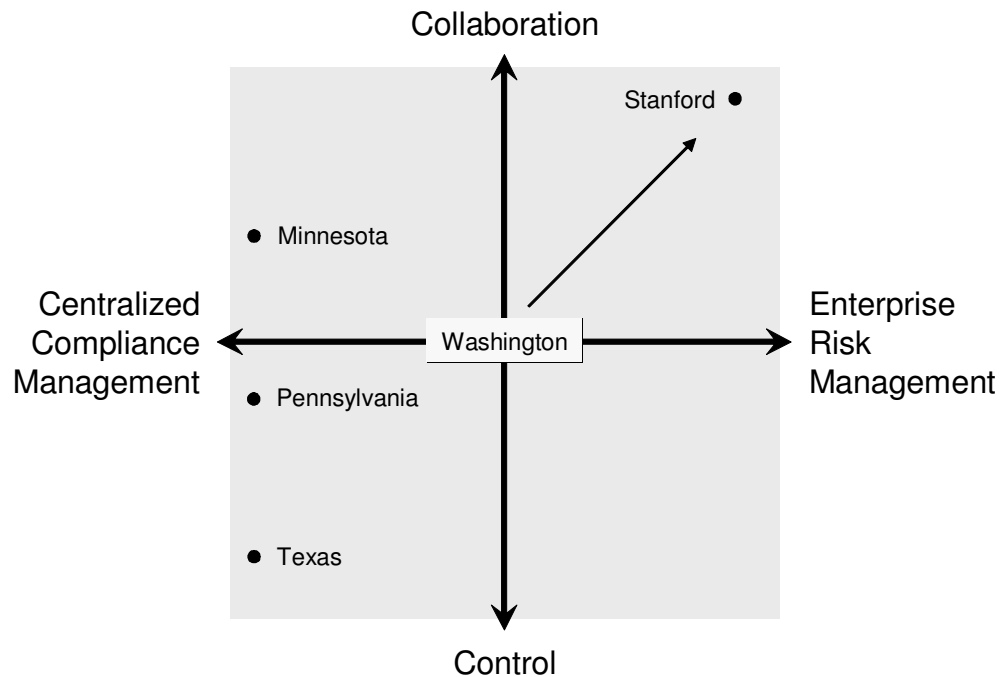


Figure 5. The approaches to institutional compliance of four universities shown on a matrix with dimensions of scope and philosophy. Scope is compliance-risks-only versus all enterprise risks. Philosophy is collaboration-oriented versus control-oriented. From “Collaborative enterprise risk management,” 2006, University of Washington, Seattle.

Summary

Universities face risks associated with athletics noncompliance. College sports are popular, but a perception of them as commercialized and even corrupt also exists. Athletics expenses have been rising, increasing the pressure for wins and revenue and in turn increasing temptations for rules noncompliance. The NCAA was founded in the midst of rules problems, and the tension between athletics and the academic mission has existed from the start. Reports by the Carnegie Foundation in 1929, the American Council on

Education in the 1950s and 1970s, and the Knight Commission in the 1990s called for major reforms. The calls for reform had little effect until university presidents began to assert influence in the 1980s through an advisory-power-only Presidents Commission. Following a major restructuring in 1997, presidents constituted the top committees in the NCAA.

Studies of presidential involvement in athletics have indicated that presidents have become more involved and are confident of their control. Most Division I-A athletics directors report directly to their presidents. Some issues in the management of athletics have been (a) the position to whom the athletics director reports, (b) the organizational locations of athletics-support functions, (c) the organizational location of the compliance function, and (d) faculty involvement in athletics.

Colleges and universities increasingly face legal and other risks. Observers have called for preventive approaches. Compliance risk is one significant type of risk.

Institutions face compliance risks in athletics. Both in the 1980s and in the 1990s, more than half of the Division I-A institutions were censured, sanctioned, or put on probation. Noncompliance risks include competitive, revenue, expense, and reputation consequences. The NCAA has its own approach to compliance. Its principles of institutional control include (a) formal policies and procedures, (b) monitoring and enforcement, (c) communication of procedures, (d) alterations of systems as needed, (e) swift response to violations, (f) communication of disciplinary consequences, (g) individual reporting without negative consequences, and (h) compliance education. Its C.O.D.E. model outlines key compliance-program elements: (a) communication, (b) organization, (c) documentation, and (d) evaluation. Its program audits include

questionnaires covering the topics of the NCAA manual, as well as interviews with compliance professionals, athletics administrators, and the university president. The NCAA's approach to compliance programs does not include the use of risk assessment.

Compliance-program effectiveness has been an area of considerable activity outside higher education. Influential models for compliance programs have been the U.S. Sentencing Commission's 1991 Sentencing Guidelines and COSO's *Internal Control--Integrated Framework*. The Sentencing Guidelines' seven compliance-program elements are (a) standards and procedures, (b) oversight, (c) care in delegation and hiring, (d) education, (e) monitoring, audit, and reporting systems, (f) response to violations; and (g) corrective disciplinary action. The COSO framework includes (a) a control environment, (b) risk assessment, (c) control activities, (d) information and communication, and (e) monitoring.

The research on compliance programs outside higher education has shown that the great majority of companies had ethics policies but that programmatic support of the policies varied widely. Values-oriented compliance programs, cultural factors, and program follow-through have been shown to be important.

Risk assessment has been used as an approach to compliance in higher education. A study indicated that whereas 79% of the 450 responding presidents and chancellors saw the value of having an institution-wide risk-management program, only 43% of the schools actually had one. The University of Texas System, in particular, has described its risk-assessment approach, in which work units have identified risks and prioritized them on the basis of their magnitude of impact and probability of occurrence. Risks have been compiled in risk areas, and critical institution-level risks have been identified.

The authors of a University of Washington study described centralized compliance and enterprise risk management as two models for compliance in higher education. Centralized compliance addresses compliance risk only. Enterprise risk management addresses financial, operational, strategic, and compliance risk. Two philosophical approaches were also differentiated: control and collaboration. A control approach emphasizes (a) structure, (b) accountability, (c) a separate compliance organization, and (d) outside monitoring. A collaborative approach emphasizes (a) process and outcomes, (b) integration into everyday management, (c) compliance committees, and (d) open communication.

Chapter 3 is a description of the researcher's design and methods, including descriptions of the research site, informants, interview method, and data analysis methods.

CHAPTER 3: RESEARCH DESIGN AND METHOD

Chapter 3 is a description of the design of the study and the researcher's methods, including descriptions of the (a) research site, (b) informants, (c) interview method, (d) means of ensuring the trustworthiness of the data, (e) means of protecting the rights of the informants, and (f) data analysis methods.

Design

The study was a cross-sectional, descriptive case study. Johnson (2001), in classifying nonexperimental research, defined a descriptive case study as a study in which the researcher's primary objective is to describe a phenomenon and document its characteristics. The design was cross-sectional in that the data were collected at a single point in time. Patton (2006) noted that the gold standard for research designs should be methodological appropriateness. In this case, a descriptive case study was considered most appropriate because the use of risk management in athletics compliance was an uncommon and possibly beneficial approach that had not been thoroughly documented.

The design of the study can also be considered a grounded theory design (Maxwell, 2005). In studies with grounded theory designs, researchers collect qualitative interview data and inductively identify categories or themes in the data. On the basis of the interview data, the researcher develops a theory that conceptually explains a particular process or set of interactions. Creswell (2002) observed,

Grounded theory designs are systematic, qualitative procedures that researchers use to generate a theory that explains, at a broad conceptual level, a process, action, or interaction about a substantive topic. The procedures for developing this theory include collecting primarily interview data, developing and relating

categories (or themes) of information, and composing a figure or visual that portrays the theory. In this way, the theory is “grounded” in the data from participants. (p. 60)

In the context of the case study research design, the researcher’s methods included (a) selection of a research site, (b) identification of informants, (c) data collection through interviews and review of documents, (d) ensuring the trustworthiness of the data, (e) protection of the rights of informants, and (f) data analysis.

Research Site

The State University System³ was selected purposively as the research environment on the basis of the extensiveness of its institution-wide risk management program. The State University System has been active in describing its experiences in risk management (for example, presenting at seminars and conferences).

Within the State University System, Carston State University (CSU) was selected as the primary institution-level research site for four reasons:

1. Both the athletics director and the compliance officer at Carston State University were on the State University System’s original Intercollegiate Athletics High-Risk Working Group in 1998, which first applied risk-management concepts to athletics. Thus, both individuals had experienced the full history of the effort.
2. Carston State University was a Division I school with a compliance staff of one professional and one administrative assistant.
3. The athletics director at Carston State University had been active at the national level in the NCAA. He had served on NCAA Peer Review Teams and

had been active in the I-AAA Athletic Directors Association. Thus, he had had experiences that gave him an awareness of the NCAA perspective on compliance.

4. Athletics and risk management staff members at Carston State University expressed an interest and willingness to participate in the study.

Informants

The study's informants at Carston State University were (a) the president, (b) the athletics director, (c) the institutional compliance officer, (d) a faculty member on the Athletics Council, (e) the athletics compliance coordinator, (f) the senior woman administrator, and (g) the head men's basketball coach. To achieve triangulation, interview data were also collected from informants at (a) the State University System's System-Wide Compliance Office, (b) the Mid-Central Conference, and (c) the NCAA Enforcement office.

Staff members at the State University System-Wide Compliance Office, which oversees compliance at all of the institutions in the State University System, were interviewed for their perspectives on risk management in higher education, athletics compliance risk, and the athletics compliance program at Carston State University. The informants at the System-Wide Compliance Office were (a) the system-wide compliance officer, (b) the assistant director of system-wide compliance, and (c) the system-wide compliance supervisor.

The compliance director of the Mid-Central Conference (who conducted CSU's most recent NCAA external compliance review) served as an informant in order to provide an outside perspective on CSU's athletics compliance program.

Two members of the NCAA Enforcement staff served as informants in providing the NCAA perspective on the use of risk assessment in athletics compliance.

Data Collection

Two kinds of data were collected: interview data and documents. Interviews were primarily one to one and face to face, and varied from approximately one hour to two hours in length. The interviews were conducted at three physical locations: (a) the Carston State University campus, (b) the System-Wide Compliance Office, and (c) NCAA headquarters (see Table 1). One interview was conducted jointly with two informants. One interview was conducted by telephone. The interviews were semi-structured in that questions varied on the basis of the particular role of the informant, the content of the informant's comments, and the researcher's understanding at that point. Nevertheless, the focus of all questions was on the *process* of risk assessment and the perceived *consequences* of risk assessment on the compliance program and the institution. The researcher used an Olympus DS-2200 digital audio recorder to record the interviews. The digital interview files were then uploaded to a laptop computer.

Table 1

The Informants, their Affiliations, and the Interview Method

Affiliation	Informant	Interview method
Carston State University	University president	Face to face
	Athletics director	Face to face
	Institutional compliance officer	Face to face
	Faculty member, Athletics Council	Face to face
	Athletics compliance coordinator	Face to face
	Athletics senior woman administrator	Face to face
	Head men's basketball coach	Face to face
State-Wide Compliance Office	System-wide compliance officer	Face to face
	Asst. dir., system-wide compliance	Face to face
	System-wide compliance supervisor	Face to face
Mid-Central Conference	Conference compliance director	Telephone
NCAA Enforcement	Two staff members (joint interview)	Face to face

A telephone interview was conducted with one informant who was not located at the primary research site. The telephone interview was also audio-taped, and the telephone interview was conducted in similar fashion to the face-to-face interviews. E-mail was used for follow-up questions in several instances to clarify and amplify the content of the interviews.

Documents related to risk assessments and compliance plans were collected and reviewed. The documents included risk-management and compliance documents from both CSU and the State University System. A complete list of documents is included in Appendix D.

Trustworthiness of the Data

In qualitative research, trustworthiness of the data is the parallel standard to validity in quantitative research. The believability of the data was established through triangulation, member checking, and auditing. Triangulation occurred at three levels. At the institutional level, the views of the CSU president, athletics director, and institutional compliance officer, as well as of other CSU informants, were compared. At the system level, the views of the CSU informants were triangulated with the views of the State University System compliance professionals and the Mid-Central Conference compliance director. Finally, the views of the CSU, State University System, and Mid-Central Conference informants were compared with those of the NCAA-enforcement staff members. Member checking was conducted through debriefing with each informant immediately following an interview. Auditing was achieved by maintaining an audit trail of all interviews, documents, and notes.

Protecting the Rights of the Informants

All data have been reported anonymously. Pseudonyms have been used to protect the institution's and informants' identities. The raw data, in the form of audio tapings, were kept confidential and maintained securely by the researcher. The audio files were uploaded to a personal computer following each interview. Once uploaded to the computer, the audio files were erased from the recorder. The audio files were accessed

only by the researcher and were password protected on the computer. All audio data were destroyed upon completion of the dissertation defense. The subjects were informed of the research results. The anonymity of the subjects and institution was maintained in all reports.

Data Analysis

The recorded interviews were transcribed by the researcher. Lofland and Lofland (1995) described researcher-transcribed interview data as follows:

The written record of the interview, then, is an amalgam of the following: (a) summaries and notes of what the informant said generally at some point, (b) verbatim transcription of responses that seem important at the point of the write-up, (c) field notes of relevant extra-interview encounters with the informant, (d) personal emotional experiences, (e) methodological difficulties or successes, and (f) ideas--little, tentative pieces of analysis. (p. 88)

The data were analyzed by coding and memoing. Notes and concepts were written immediately after the interviews and again during the replay of the recorded interviews. Glaser and Strauss (1967) referred to this as the constant comparison method. Codes are “labels that classify items of information as pertinent to a topic, question, answer, or whatever” (Lofland & Lofland, 1995). Memos are “the written-out counterparts or explanations and elaborations of the coding categories” (Lofland & Lofland, 1995, p. 193). Strauss and Corbin (1990) maintained,

Writing theoretical memos is an integral part of doing grounded theory. Since the analyst cannot readily keep track of all the categories, properties, hypotheses, and generative questions that evolve from the analytical process, there must be a

system for doing so. The use of memos constitutes such a system. Memos are not simply “ideas.” They are involved in the formulation and revision of theory during the research process. (p. 10)

Concept charting was also used to visualize and organize ideas, possible themes, and informants’ comments. Items were written on post-it notes and arranged on a wall-size sheet of paper. Lofland and Lofland (1995) described concept charting as follows:

A . . . strategy of visualizing and, therefore, of developing analysis is to arrange all one’s working elements on a single sheet of paper, often a very large piece of paper, for the purpose of more clearly envisioning the relations among the elements. (p. 198)

Computer assisted, qualitative data analysis software was not used. Through use of the two theoretical frameworks as conceptual lenses, coding, memoing, and concept charting were found to be sufficiently powerful techniques for identifying themes in the data.

In addition to the analysis of interview data, documents related to Carston State University’s athletics compliance risk assessments and compliance plans were reviewed and analyzed as evidence of the risk-assessment process and its influences.

Chapter 4 is a presentation of the data and the key themes arising from the data, including (a) a description of the research site’s compliance-related organization, (b) a presentation of its risk-based compliance process, and (c) the key themes that were identified in the interview data, with supporting excerpts.

CHAPTER 4: PRESENTATION AND ANALYSIS OF DATA

The data are presented in four parts. The first part is an overview of the research site. The second part shows the compliance-related organization, as described by the informants and visualized by the researcher. The third part contains the key themes that were identified through analysis of the interview data, as well as samples of supporting interview data. The fourth part is a description of the risk-based compliance process, as conceptualized by the researcher, which connects the themes to the compliance operation.

Overview

The State University System is a system of public universities, including Carston State University.⁴ The State University System has a coordinated compliance program in which each institution in the system operates an institution-wide compliance program. At each institution, risks are identified, prioritized, and combined to list the top risks faced by the institution. Risk management plans that include policies, procedures, training, and monitoring are then developed.

Overview of the State University System

The State University System is composed of several public universities. Some of the universities also have associated medical facilities. A number of high-profile compliance problems in various functions and institutions in the 1990s led the system chancellor and board of regents to mandate a system-wide compliance effort. Institution-wide compliance programs have since been implemented at all of the institutions in its system. A state-wide compliance office provides compliance oversight, training, and auditing. Each institution has an institutional compliance officer.

Overview of Carston State University

Carston State University (CSU) is one of the institutions in the State University System. Carston State University is a large, public, coeducational university. As of Fall 2005, the university had more than 19,000 undergraduate students and more than 5,000 graduate students. The university offers about 80 baccalaureate, 70 master's, and 30 doctoral degrees. It has ten colleges, including business, education, engineering, liberal arts, nursing, science, and social work. It has a faculty of about 1,500 and about 3,500 other staff. Its 2005 operating budget was more than \$300 million with about \$50 million in research and sponsored activity. It has a racially mixed student body that includes about 10% international students.

Carston State University has 14 NCAA Division I teams and is considered a Division I-AAA (no football) school. It is a member of the Mid-Central Conference. Its men's sports include baseball, basketball, cross country, golf, tennis, and indoor and outdoor track. Its women's sports include basketball, cross country, softball, tennis, indoor and outdoor track, and volleyball.

Carston State University has an athletics compliance staff of one compliance professional and one full-time administrative assistant. Thus, it can be considered similar in scope to many *mid-major* Division I-A (football) schools, Division I-AA (football) schools, and other Division I-AAA schools.

The Compliance Organization

The compliance organization can be understood through consideration of (a) the State University System's organization, (b) Carston State University's institutional

compliance organization, and (c) Carston State University's athletics compliance organization. At all three levels, both departments (or offices) and committees exist.

The State University System's Compliance Organization

The State University System compliance-related organization includes (a) the System-Wide Compliance Office, which provides oversight of compliance at all institutions in the System; (b) the network of institutional compliance officers, each located at an institution in the system; and (c) high-risk working groups, which are inter-institutional task groups focused on particular high-risk areas.

The System-Wide Compliance Office

The System-Wide Compliance Office coordinates the state-wide operation of institutional compliance programs at the individual institutions in the system.

The role of the System-Wide Compliance Office. The System-Wide Compliance Office provides oversight of the institutional compliance programs at each of the institutions in the system. Its staff includes the system-wide compliance officer, an assistant director, and a compliance supervisor. The staff receives and reviews annual risk assessments from each of the institutions. The staff organizes the peer-review system in which compliance professionals review the compliance programs at each other's institutions. The staff also conducts its own reviews and audits, provides compliance training and resources, and compiles and shares best practices.

Craig⁵ (system-wide compliance supervisor) stated,

This office provides primarily best practice sharing; we facilitate peer reviews across the institutions; the sharing of best practices and communications is one of the main things we do in this office.

The State University System has a single board of regents governing its universities and medical centers. The system-wide compliance officer is responsible for apprising the System's chancellor and board of regents of the status and activities of institutional compliance throughout the system.

Institutional compliance officers. Each institution has an institutional compliance officer. The System-Wide Compliance Office communicates regularly with the institutional compliance officers. The institutional compliance officers are responsible for sending risk assessments and risk-management plans to the System-Wide Compliance Office.

Initial institutional high-risk areas. The State University System initially identified ten high-risk areas at the institutional level:

1. *Asset management* risks included physical and financial assets not being safeguarded.
2. *Clinical billing* risks (for universities with hospitals) included medical billing not appropriately documented and coded.
3. *Endowments* risks included nonadherence to the terms of endowment agreements.
4. *Environmental health and safety* risks included improper use and handling of dangerous materials, lab safety issues, and fire safety issues.
5. *Human resources* risks included nonadherence to applicable rules, regulations, and laws (including equal opportunity and affirmative action, leave administration, and fair hiring practices).

6. *Information resources and security* risks included failure of systems integrity, continuity, and availability; nonadherence to security regulations; and insufficient external access.
7. *Intercollegiate athletics* risks included nonadherence to NCAA rules and regulations, as well as other athletics-related risks.
8. *Research* risks included research not conducted in accordance with approved protocol or federal regulations.
9. *Contract administration and effort reporting* risks included improper effort reporting on federal grants, as well as unallowable costs.
10. *Privacy* risks included improper disclosure of private, sensitive, or protected information related to HIPAA,⁶ FERPA,⁷ and Graham-Leach-Bliley.⁸

The initial high-risk working groups. During its initial implementation of institution-wide risk management, the State University System established 13 high-risk working groups, one of which was the Intercollegiate Athletics High-Risk Working Group. The 12 other high-risk working groups at the State University System level were (a) basic research; (b) campus security; (c) clinical research; (d) conflicts of interest; (e) endowments; (f) environmental, health, and safety; (g) fiscal management; (h) HIPAA; (i) human resources; (j) information technology; (k) medical billing; and (l) student financial aid.

These high-risk working groups provided guidance to the institutions on compliance in particular risk areas. The members of each working group were experts from the various institutions. These ad hoc committees developed risk-area-specific monitoring, training, and reporting plans that could be used as templates by all

institutions in the System. In addition, the risk-management plans served as frameworks with which the System-Wide Compliance Office could audit the institutions.

The Intercollegiate Athletics High-Risk Working Group

The Intercollegiate Athletics High-Risk Working Group was charged with developing (a) a communication network among athletic compliance directors, (b) a common set of athletics-related high-risk areas, (c) monitoring plans, and (d) a specialized training plan.

The Intercollegiate Athletics High-Risk Working Group was composed of two athletics directors, five athletics compliance professionals, and an internal auditor. They represented five universities in the system.

Fourteen high-risk areas. The Intercollegiate Athletics High-Risk Working Group identified 14 high-risk areas in four categories (see Table 2). In the category of Institutional Control, the high-risk areas were (a) rules education and (b) infractions. In the category of Departmental Management, the high-risk areas were (c) athletic department certification and annual audit, (d) fiscal management, and (e) the conference's operating code. In the category of Student-Athlete Management, the high-risk areas were (f) recruiting, (g) student eligibility, (h) financial aid, (i) extra benefits, (j) gender equity, and (k) student welfare. In the category of Third-Party Management, the high-risk areas were (l) sport camps, (m) facilities safety, and (n) inclement weather.

Table 2

Fourteen High-Risk Areas in Athletics, as Initially Identified by the State University System's Intercollegiate High-Risk Working Group

Category	High-risk area
Institutional control	Rules education
	Infractions
Departmental management	Athletics department certification and annual audit
	Fiscal management
	Conference's operating code
Student-athlete management	Recruiting
	Student eligibility
	Financial aid
	Extra benefits
	Gender equity
	Student welfare
Third-party management	Sport camps
	Facilities safety
	Inclement weather

Seventy-four specific risks. The working-group members then identified 74 specific risks within the 14 high-risk areas, which they rated as high *impact* (if they occurred) and as high or medium *probability* (likelihood of occurrence). (See Appendix E for a complete list of the 74 specific risks.) For example, a specific risk in the high-risk area of student eligibility was *inadequate documentation of yearly Student-Athlete Statement and Drug Consent Form*.

Three levels of controls. The working group then developed monitoring plans for the 74 specific high risks (see Appendix F for a sample of the risk-monitoring-plan format). The working-group members defined three levels of controls in the monitoring plans: (a) operating controls, (b) supervisory controls, and (c) oversight controls. Operating controls were procedures applied by operating staff during every transaction in a process to ensure compliance with rules governing the process (for example, segregation of duties and reconciliations). Supervisory controls were procedures performed immediately afterward by first-line managers on a sample of completed transactions to ensure that operating controls had been applied. Oversight controls were procedures applied by senior managers soon afterward on completed transactions to ensure that operating or supervisory controls had been applied (for example, status reports, exception reports, and budgeted versus actual comparisons).

For the specific risk of *inadequate documentation of yearly Student-Athlete Statement and Drug Consent Form*, the *operating* control was an initial team meeting in which all student-athletes completed the required forms (the evidence of control was the signed and dated NCAA forms). The *supervisory* control was the Director of Compliance's reviewing 100% of the signed NCAA forms and matching the signed

forms to team rosters (the evidence of control was the Eligibility Grid and the Squad List). The *oversight* control was the selection of a sample of student-athletes from the Squad List and verification that the NCAA forms had been completed (the evidence of control was a quarterly memorandum detailing the results of the oversight controls sent to the athletics director, athletics compliance office, and institutional compliance office).

The basic premise of the three levels of controls was that no additional assurance would be gained from someone checking his or her own work. No matter who performs the operating controls, someone else needs to perform the supervisory and oversight controls.

Two lessons of the Working Group. The Intercollegiate Athletics High-Risk Working Group reported two lessons learned during its development of the monitoring plans. The first lesson was that oversight controls could be performed by a variety of individuals (such as the athletics director, the compliance coordinator, the faculty athletic representative, members of a compliance committee, or the internal audit department), depending on the resources of the institution. The second lesson was that monitoring information was not consistently being submitted to athletic directors (who were defined as the responsible parties⁹) or to the institutional compliance committees. This was deemed critical so that the responsible party was aware of instances of noncompliance and could administer corrective action.

CSU's Institutional Compliance Organization

The compliance-related organization at Carston State University includes (a) the Institutional Compliance Office, (b) the Institutional Compliance Executive Committee, and (c) a number of compliance committees.

CSU's Institutional Compliance Office

The Institutional Compliance Office includes Institutional Compliance and Internal Audit. The office assists work units and high-risk areas in identifying and prioritizing risks and in designing compliance monitoring plans and training plans. The office also maintains the compliance training program. The staff of the Institutional Compliance Office includes the institutional compliance officer and a director of institutional compliance, as well as an internal audit group.

The responsibilities of the institutional compliance officer. The institutional compliance officer's responsibilities are to (a) make compliance part of everyday life at the institution, (b) monitor compliance program activities, and (c) communicate with the president regarding compliance.

Making compliance part of everyday life involves (a) communication for awareness, (b) creating a risk-based plan and compliance manual, (c) providing training, (d) creating monitoring plans and assurance processes, (e) setting up a confidential reporting mechanism, and (f) creating reporting procedures. Monitoring includes the monitoring of (a) training, (b) risk assessment, (c) monitoring plans, (d) responses to instances of noncompliance, and (e) the confidential-reporting mechanism.

Communication with the president includes (a) instances of noncompliance that require executive action, (b) the risk-based plan, (c) monitoring activities, (d) compliance committee meeting minutes, and (e) the compliance program self-assessment.

Auditing athletics compliance. Once a year the audit group in the Institutional Compliance Office audits one of the athletics program's top three risk areas.

Jack (athletics director):

We have three areas that we have Susan look at every three years. It's an opportunity to have a second set of eyes on those three high-risk areas.

CSU's Institutional Compliance Executive Committee

The Institutional Compliance Executive Committee provides oversight for CSU's institutional compliance program. The role of the Committee is to provide senior-executive-level decision making for the compliance program. Its responsibilities are to (a) provide guidance and direction on policy, (b) allocate resources, and (c) ensure that appropriate action is taken on instances of noncompliance.

CSU's Compliance Committees

Compliance committees (subcommittees of the Institutional Compliance Executive Committee) were formed for each of the high-risk areas at Carston State University. The purpose of the compliance committees was to (a) identify, prioritize, and report specific risks in their respective risk areas; (b) review the associated risk-management plans designed to mitigate the identified risks; and (c) monitor the evidence of controls.

The 10 initial compliance committees at Carston State University addressed (a) research; (b) academic affairs; (c) environmental health and safety; (d) human resources; (e) taxes and tax issues; (f) financial accounting, contracting, purchasing, and associated reporting; (g) student affairs; (h) intercollegiate athletics; (i) campus security and crime control; and (j) endowments and fund raising. Carston State currently has seven high-risk areas: (a) research, (b) accounting and business services, (c) endowments, (d)

intercollegiate athletics, (e) information technology, (f) environmental safety, and (g) physical plant.

CSU's Athletics Compliance Organization

The athletics compliance-related organization includes (a) the Athletics Council, (b) its main subcommittees, and (c) the Athletics Department (see Figure 6).

CSU's Athletics Council

CSU's Athletics Council originally had 12 members. The Athletics Council and an Intercollegiate Athletics Compliance Committee existed separately. The Athletics Council and the Intercollegiate Athletics Compliance Committee were then combined to form a single committee (using the name *Athletics Council*) that provided guidance and review on athletics risks and athletics compliance.

Jack (athletics director):

We came up with this concept to empower them to do something and have them in charge of monitoring our department.

Normally they work in pairs or threes. We have a couple of groups that do monitoring on eligibility. They check Richard's [athletics compliance coordinator] records to be sure everything is correct.

The members of the Athletics Council are (a) the athletics director (co-chair) (b) the faculty athletics representative (co-chair), (c) six faculty members, (d) two student-athletes, (e) a student (the student body president), (f) the associate provost, (g) the registrar, (h) the director of scholarships, (i) the admissions counselor for international students, (j) an admissions-transcript evaluator, (k) the assistant director for student health services, (l) the assistant vice-president for management services, (m) the

university financial reports manager, (n) the senior woman administrator, (o) the associate athletics director for finance and administration, (p) the athletics academics coordinator, and (q) the athletics compliance coordinator.

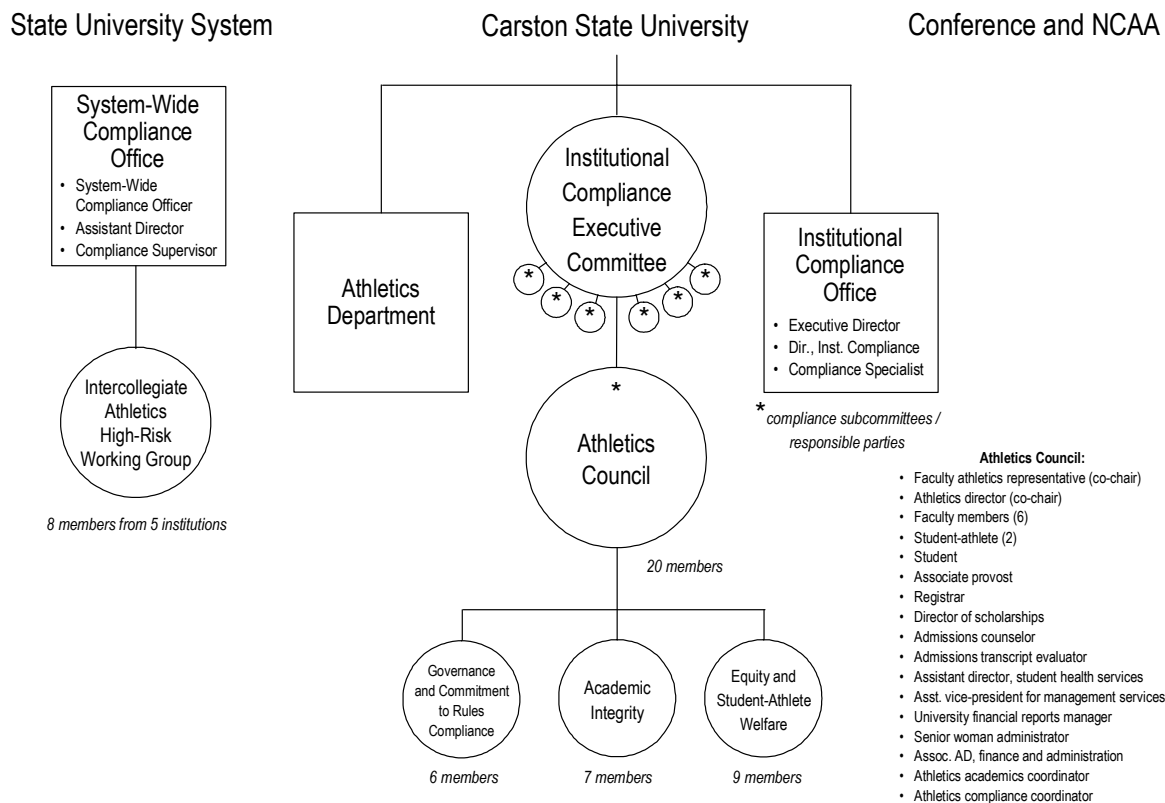


Figure 6. CSU's compliance-related organizational structure as observed and drawn by the researcher, on the basis of interviews. The structure shows the organizational relationships of CSU's (a) Institutional Compliance Executive Committee, (b) Athletics Council and its subcommittees, (c) Athletics Department, and (d) Institutional Compliance Office. The organizational structure also shows the System-Wide

Compliance Office and its Intercollegiate Athletics High-Risk Working Group at the State University System level.

CSU's Athletics Council Subcommittees

The Athletics Council has three main subcommittees: (a) the Governance and Commitment to Rules Compliance subcommittee, (b) the Academic Integrity subcommittee, and (c) the Equity and Student-Athlete Welfare subcommittee. The subcommittees correspond to the NCAA's Operating Principles, which are the basis on which each institution must be certified by the NCAA every ten years.

The Governance and Commitment to Rules Compliance subcommittee. The responsibilities of the Governance and Commitment to Rules Compliance subcommittee are to (a) monitor certification of student-athletes; (b) monitor recruiting records; (c) review playing and practice records; (d) review the rules education of coaches, student-athletes, and boosters; (e) review reports of rules violations and approve plans for preventing future violations; and (f) review efforts related to relevant NCAA operating principles. The subcommittee is responsible for NCAA Operating Principle 1.1 (institutional control, presidential authority, and shared responsibilities) and Operating Principle 1.2 (rules compliance).

The members of the subcommittee are (a) two faculty members, (b) the admissions-transcript evaluator, (c) the registrar, (d) the athletics compliance officer, and (e) the director of scholarships.

The Academic Integrity subcommittee. The responsibilities of the Academic Integrity subcommittee are to (a) monitor student absences due to team scheduling, (b) monitor sports scheduling, (c) recommend institutional and departmental policies

regarding university-excused absences, (d) monitor athletics graduation rates by sport, (e) monitor the admission of student-athletes, (f) monitor grade point averages by sport, (g) monitor academic support services, and (h) review efforts related to relevant NCAA operating principles. The subcommittee is responsible for NCAA Operating Principle 2.1 (academic standards) and Operating Principle 2.2 (academic support).

The members of the subcommittee are (a) a student-athlete, (b) three faculty members, (c) the faculty athletics representative, (d) the associate provost, and (e) the athletics compliance officer.

The Equity and Student-Athlete Welfare subcommittee. The responsibilities of the Equity and Student-Athlete Welfare subcommittee are to (a) conduct exit interviews, (b) monitor the ratio of minorities in each sport, (c) review Student-Athlete Advisory Committee meeting minutes and concerns and respond as appropriate, (d) analyze the gender and ethnic makeup of the athletics department staff, (e) monitor the sportsmanship and ethical conduct of students and staff during athletic competition, and (f) review efforts related to relevant NCAA operating principles. The subcommittee is responsible for NCAA Operating Principle 3.1 (gender issues), Operating Principle 3.2 (minority issues), and Operating Principle 3.3 (student-athlete welfare).

The members of the subcommittee are (a) the athletics director, (b) the senior woman administrator, (c) the athletics academics coordinator, (d) the admissions counselor for international students, (e) the student body president, (f) a student-athlete, (g) the assistant director for student health services, (h) the assistant vice-president for management services, (i) and the associate athletics director for finance and administration.

Two other subcommittees. Two other subcommittees exist but are not currently active: the Executive subcommittee and the Fiscal Integrity subcommittee. The responsibilities of the Executive subcommittee were to (a) act on compliance matters between Athletics Council meetings as necessary, and (b) act on sensitive matters not appropriate for the full committee. (The policy of the previous administration had been avoidance of discussion of compliance issues in the presence of student-athletes or students. The current administration has the opposite philosophy, and students are currently included in all compliance-related discussions.)

The Fiscal Integrity subcommittee was formed when fiscal integrity was assessed as part of the every-ten-years certification. Fiscal integrity is no longer evaluated as part of certification but instead is audited annually as required by the NCAA. Nonetheless, Carston State has maintained the Fiscal Integrity subcommittee as an existing although not regularly active body and can use its services as needed.

CSU's Athletics Department

The athletics director is named as the responsible party for all athletics-related risks. The athletics director reports to the president and is the co-chair (with the faculty athletics representative) of the Athletics Council. Each year the athletics director submits the Athletics Council's prioritized list of risks to the Institutional Compliance Office. The athletics director receives risk-monitoring reviews by the Athletics Council subcommittees as well as audits by the Institutional Compliance Office.

The athletics compliance coordinator performs normal athletics-compliance duties and also facilitates and participates in athletics risk-management plans. The athletics-

compliance coordinator conducts periodic in-service training for Athletics Council members so that the council members can monitor compliance processes.

Three other athletics department staff members serve on the Athletics Council: (a) the senior woman administrator, (b) the associate athletics director for finance and administration, and (c) the athletics academics coordinator. Although athletics department members serve on various Athletics Council subcommittees, they do not participate in compliance audits.

Themes in the Interview Data Related to Each Research Question

Twenty-two themes were identified from the 12 interviews conducted and the 17 types of documents reviewed. These themes were distinct patterns in the interview data that were vivid and distinct to the researcher. The themes were derived by coding the transcribed data, memoing (writing notes after the interviews and during transcription), and concept charting (physically visualizing the ideas and notes). Descriptions of each theme and supporting interview data, organized by research question, follow.

Incorporating Risk Assessment into Athletics Compliance

Research Question 1 was *What are the specific methods and steps of incorporating risk assessment into athletics compliance?* The following themes were identified as related to incorporating risk assessment into athletics compliance.

1. Athletics compliance was embedded in CSU's institutional compliance program.

At Carston State, athletics compliance was part of an institution-wide compliance effort that addressed all risk areas. Athletics, together with other risk-facing departments and areas, followed an institution-wide process of (a) forming a compliance committee; (b) identifying, prioritizing, and reporting risks; (c) developing plans for managing the

risks; and (d) assuring that the plans were in effect. CSU's Institutional Compliance Office (a) deployed a common framework and vocabulary of risks and risk management, (b) monitored the risk management activities of Athletics (and all areas), (c) produced an institution-wide list of prioritized risks, and (d) reported risks and risk-management activities to the president. Far from being a private, internally managed staff function of the Athletics department, athletics compliance was a public process with university-wide participation that followed a consistent set of risk-management principles and fit into a university-wide effort to safeguard the institution.

Susan (institutional compliance officer):

Overall, the compliance program has been positive. We've done culture shifts over the last eight years. . . . I don't think we're there, yet.

Craig (system-wide compliance supervisor):

Think about what would keep your boss out of jail, and that's a part of it, but what keeps you from achieving your mission and the objectives of your institution?

2. Risks management in compliance had commitment at the top.

At CSU, the president was involved in, and knowledgeable about, the risk-management process. It did not appear, for example, that compliance practitioners in Athletics, at CSU, and at the System level were talking only to each other without executive attention. The president was involved in seeing risk plans, talking to the Institutional Compliance Executive Committee, talking to the athletics director, and talking to the coaches about compliance. It seemed clear that executive commitment to risk-management in compliance was needed at CSU and was provided.

Dr. Winthrop (university president):

I do think it is important just to let people know that we are totally committed to compliance and following NCAA regulations, and that . . . it's not just their job, it's my job, it's the athletics director's job, that we're all expected to take these regulations very seriously and that less than our best efforts won't be tolerated.

I think it requires first of all a commitment on the part of the president of the university to make compliance a priority, a priority for him or her as well as the institution and not to delegate that to someone else.

Craig (system-wide compliance supervisor):

The key, arguably the most important of all in an effective compliance program, is the tone at the top, approval from the top, that this is a valuable exercise.

Otherwise it's not going to happen. Absolutely will not happen.

William (system-wide compliance supervisor):

It's a matter of education and the tone at the top. We work very hard with our board and president to set the right example in this process. It starts at the board and it goes all the way down to the coaches.

3. The university adopted a standard language of risk.

Carston State established a common vocabulary of compliance and risk terms and a taxonomy of risk-related concepts and actions. The Athletics department, Institutional Compliance Office, and compliance-related committees and subcommittees shared a common language and mindset about risk. This common language transcended the terminology used in specific regulatory areas, such as the NCAA rules or Title IX law, and allowed athletics-related risks to be considered holistically. These terms included

language such as (a) *compliance*, (b) *risk*, (c) *high-risk area*, (d) *specific risk*, (e) *risk assessment*, (f) *self-assessment*, (g) *potential impact*, (h) *probability of occurrence*, (i) *risk prioritization*, (j) *A risk*, (k) *B risk*, (l) *risk management*, (m) *risk mitigation*, (n) *responsible party*, (o) *operating controls*, (p) *supervisory controls*, (q) *oversight controls*, (r) *monitoring*, (s) *noncompliance*, (t) *corrective action*, (u) *risk assurance*, (v) *risk reporting*, (w) *audit*, and (x) *peer review*.

Julie (senior woman administrator):

As a group we decide what should be an A or B category.

William (system-wide compliance officer):

We do individual risk assessments for all the areas and then we bring them forward and then we develop a university-wide risk assessment. And so we end up with somewhere around 50 or so university-wide risks. And by looking at it that way, you can say, where do I want to put my resources university wide? How many do I want in athletics compliance? How many do I want in environmental protection? How many do I want in research compliance? So you have a rational way to allocate those limited resources.

When we started . . . we were all by ourselves, and we were speaking a lingo that was foreign in higher ed.

4. Risks were identified by scanning CSU's specific environment.

The value of risk assessment appeared to depend on being continuously aware of events and changes in CSU's particular environment. Rules change each year, both through changes to existing rules and the addition of new rules. (Academic Progress Rate, or APR, is a good example of a new set of NCAA rules with major competitive and

reputational risks.) Incidents that point out new risks may occur at other schools. The mix of student-athletes, including new international students or transfer students, may change, with implications for possible violations. The sudden success of a team may create new risks. Doing a risk assessment one time and *locking in* those initially identified risks was mentioned as a pitfall to avoid.

Pamela (assistant director, system-wide compliance):

There was one of the national championship rings [from another institution] on eBay. The NCAA rule is that a current student-athlete can't benefit . . . so here is an obscure little rule related to the ability to sell a ring . . . you can't monitor the whole book, you have to bring it down to a level. It helps illustrate, with athletics, that the complexity of that manual adds to the complexity of the risk assessment. Because normally winning a ring for a championship, that would not fall high on your risk assessment . . . that's why you can't do a risk assessment once and be done.

Craig (system-wide compliance supervisor):

You've got to take some risks. You try to control the biggest ones, but not the lowest ones. That's why you also have to continuously renew and find out what are the additional risks associated with this, and what are the consequences if this risk were to happen.

Institutions have to make calls about what is a high risk, medium risk, low risk. Things change. They have to constantly be aware of the changing environment. And what are the responsibilities of the institution and the emerging trends at large.

Discussion of CSU's compliance risks raised the point that different schools face different risks. Several informants noted that Division I-A *power* schools face certain risks (such as boosters providing cars or no-show jobs to star athletes) that *mid-major* Division I-A and Division I schools do not realistically face. The informants also saw the NCAA as focused on enforcing the rules rather than suggesting the most practical and efficient means of complying with the rules. Richard, the athletics compliance coordinator, stated that "the way they [NCAA] have enforced compliance is by penalizing after the fact rather than preparing you before the fact. And I think that has always been the case." The sheer number of rules in the NCAA Division I Manual (in the thousands) caused concern. Craig, the system-wide compliance supervisor, stated, "The NCAA has an unbelievable amount of rules. I would be very concerned if we weren't doing risk assessment."

Dr. Winthrop (university president):

Any time you're in the business of awarding athletics scholarships and trying to be in full compliance with NCAA regulations, which are very detailed and specific, it requires a lot of attention.

Susan (institutional compliance officer):

I've always told Jack, "You know, you can't monitor a manual." You have to pick something in the manual that you think is a high risk. You can't possibly monitor the whole thing. The manual is this thick [gesture].

Pat (conference compliance director):

I'm working with a school right now that is going before the Committee on Infractions with the NCAA, and it is tough for our level of schools when their

overall athletics budget is 4 million, and not the 20 or 30 million that the Committee on Infractions is used to. So . . . you're trying to prioritize areas that are fertile for violations.

Pamela (assistant director, system-wide compliance):

I think they [the NCAA] recognize that you can't, I mean, look at the book, it's six inches!

Craig (system-wide compliance supervisor):

The NCAA, because the complexities are so far out there . . . is it acceptable to say, "I understand there is a risk, but we're going to choose to not do anything about it?" That is something we do, whether knowingly or unknowingly, we do that all the time across all areas. And I don't think that is a bad thing. We have to make very crisp judgments and understand very clearly that if a risk happens, there is a consequence.

5. All types of athletics-related risks were considered.

At Carston State, a holistic approach to athletics risks was taken. Athletics risks identified at the institution included rules-compliance risks and also (a) NCAA certification risks, (b) fiscal-management risks, (c) gender-equity risks, (d) travel-safety risks, (e) facilities-safety risks, and (f) inclement-weather risks. Of the 74 specific athletics risks identified by the State University System's Intercollegiate Athletics High-Risk Working Group, (a) 49 specific risks (66%) were related to NCAA rules; (b) 8 specific risks (11%) were related to gender equity, certification, and conference rules; (c) 6 specific risks (8%) were related to student-athlete welfare, safety, and health; (d) 6 specific risks (8%) were related to facilities safety and inclement weather; and (e) 5

specific risks (7%) were related to fiscal management. In the traditional mindset of athletics compliance, the athletics-compliance coordinator focuses only on NCAA rules compliance. Other athletics-related risks, even gender equity, are not traditionally considered part of the athletics-compliance coordinator's purview. Carston State's holistic approach to athletics risk prevented separate silos of compliance efforts and made the full array of athletics risks apparent.

Jack (athletics director):

Initially, one area that was really high risk to us was transportation issues.

Because that particular year [another university in the system] had an accident that killed a couple of kids. We created some new policy on team travel.

6. A single, active athletics-compliance committee was established.

Carston State's Intercollegiate Athletics Compliance Committee (now called the Athletics Council) is the single athletics-related compliance committee. Initially, an athletics council existed separately from the athletics-compliance committee, but the two committees were combined and called the Athletics Council. Through its subcommittees, the Athletics Council addresses the broad spectrum of athletics issues, including academic integrity, gender equity, and student-athlete welfare issues, as well as rules compliance. The Athletics Council's membership represents broad participation from the university and includes (a) faculty members; (b) the faculty athletics representative; (c) student-athletes; (d) administrators representing academics, finance, admissions, scholarships, and health; and (e) athletics administrators.

Significantly, rather than serving in a purely advisory capacity, the Athletics Council members, through their participation in subcommittees, engage in actual

reviewing and monitoring of compliance-related logs, reports, and statistics. Their work is considered part of the risk-assurance process. In other words, committee members do real work related to compliance.

Dr. Burns (faculty member on the Athletics Council):

I've checked out the coaches' logs, we've looked at bills, records, the signing of the forms. I do it once a year, and someone else does it once a year, and other members of the committee check other things once a year, probably half a dozen or so [checks] a year.

7. Compliance and certification activities were combined and aligned.

Rather than treating athletics compliance and athletics certification as separate activities, Carston State combined and aligned these activities, considering the certification process as a part of its risk-assurance process.

The NCAA requires each institution to be certified every ten years. The certification process involves a certification self-study by the institution and outside review by a certification review team. Certification focuses on three areas (which correspond to NCAA Operating Principles): (a) governance and commitment to rules compliance, (b) academic integrity, and (c) equity and student-athlete welfare. Institutions undergoing the certification process are expected to form committees in these three areas, review the institution's relevant progress, report the status in the self-study, and assist the outside review team in its review.

Even though certification occurs only once every ten years, Carston State formed permanent Athletics Council subcommittees in the three certification areas. Thus, (a) ongoing risk-assessment, management, and assurance activities occur in areas that are in

natural alignment with NCAA operating principles; (b) self-study is an ongoing process; and (c) the certification experience is used as outside review for risk assurance.

The Influence of Risk Assessment on the Compliance Function

Research Question 2 was *What influence does a risk assessment experience have on a compliance function's priorities, processes, and resource allocations?* The following themes were identified as related to the influence of risk assessment on the compliance function.

8. The methodologies of risk management and athletics compliance had to be reconciled.

Risk management is not, on its face, intuitively compatible with athletics compliance. Risk management typically starts at a high, conceptual level. Categories of risks, then high-risk areas, and then, specific risks are identified. Having started at such a high level, even a specific compliance risk can still be above the level of a specific NCAA rule. The nature of this process can be of concern to athletics-compliance practitioners. A practitioner knows that infractions are not defined in broad areas; infractions occur in regard to very specific rules. For example, during risk assessment, student-athlete eligibility might be identified as a high-risk area, with a number of specific risks identified below it. However, a compliance practitioner knows that there are 51 pages in the NCAA Division I Manual on student-athlete eligibility, containing 12 sections and hundreds of individual, highly specific rules. (For example, Bylaw 14.4.3.1 states that “[e]ligibility for competition shall be determined based on satisfactory completion of at least: (a) Twenty-four-semester or 36-quarter hours of academic credit prior to start of the student-athlete's second year of collegiate enrollment (i.e., third semester, fourth quarter); (b) Eighteen-semester or 27-quarter hours of academic credit

since the beginning of the previous fall term or since the beginning of the certifying institution's preceding regular two semesters or three quarters (hours earned during the summer may not be used to fulfill this requirement); and (c) Six-semester or six-quarter hours of academic credit the preceding regular academic term (e.g., fall semester, winter quarter) in which the student-athlete has been enrolled full time at any collegiate institution.”)

Understandably, an athletics-compliance coordinator can perceive that risk assessment may be useful in meeting the institution’s needs for a bird’s-eye view of risks but is not useful at the rule level. The separate methodologies of risk management and athletics compliance have to be joined and resolved. To be useful to the compliance practitioner, risk assessment must be positioned as (a) a means of prioritizing areas of attention and allocating resources, (b) as a vehicle for communicating openly about risk exposure, (c) as a protocol for planning levels of controls, and (d) as an opportunity for obtaining outside monitoring assistance but not as a substitute for detailed rules knowledge or specific, rule-level compliance procedures.

Richard (athletics compliance coordinator):

I didn’t feel it was specific to what I did. They were looking at the big picture rather than the details and specifics that I needed. I’m not against it, and I think it needed to be done because I think what they have avoided is some disastrous things, but I’m more concerned about the little things, the little details that are easily overlooked.

The mechanics of risk management can be a double-edged sword. The power of risk management is in its rigorous methodology, such as (a) identifying, rating, and

prioritizing risks; (b) reporting consistently and regularly; (c) identifying individual responsible parties; and (c) establishing multiple levels of controls. The methodology involves forms and reports, specific vocabulary, and uniformity of effort across risk areas and work units. However, it can also appear to be red tape, that is, bureaucratic requirements that meet the needs of the administration rather than tools that help the compliance effort at the ground level.

Pamela (assistant director, system-wide compliance):

The other challenge is keeping them up to date, because it is a lot of work to do a comprehensive risk assessment. It takes a long time. And higher education is so decentralized that once you've identified the risk, making sure all the monitoring plans are in place and the training is a challenge.

9. Risk assessment highlighted the challenge of covering all rules.

The concept of risk assessment raises the notion that some risks need more attention than others and that all rules cannot be equally covered. Schools are different, and their risks are different. Some of the factors that make it impossible to cover all rules equally are (a) the differences among schools in terms of size, athletics budget, and level of competitiveness; (b) the size of the compliance staffs at different schools; (c) the effort involved in covering a rule in terms of procedures, education, and monitoring; and finally, (d) the huge number of NCAA rules. Athletics-compliance professionals are typically not in the habit of admitting that everything isn't covered. However, when the topic of risk assessment is raised, compliance practitioners readily admit that everything cannot be covered.

Richard (athletics-compliance coordinator):

I think people that say they don't do that same thing are not honest. I know our coaches are trying to go by the rules, so I don't take a stopwatch to practice. . .

But there are only so many hours and so much one person can do to monitor every single rule in that book, so I think it is just natural that everyone spends more time on those that are most serious. And I don't think it is humanly possible unless you have a staff of 10 people to do it all.

William (system-wide compliance officer):

How in the world do we get our arms around this two-foot manual, and where do we put our entire resources? To my knowledge, the NCAA and conference have a rule book, and they say you must comply with all the rules, but they haven't really helped you develop a process to do all of that.

Dan (NCAA Enforcement staff member):

We often hear, from an attorney who is representing a coach, for instance, that "I'm a Harvard Law School graduate and have been practicing law for 30 years, and I can't understand this manual." I've heard frustration with the size of the manual and the difficulty of understanding the rules.

John (NCAA Enforcement staff member):

From the NCAA's perspective, it's the institution's responsibility to monitor their program, but it unfortunately gets put on one person's responsibility in compliance. So, if the institution doesn't devote enough resources to do that, it doesn't get the institution off the hook. But from an individual standpoint, you hear expressed frustration.

10. Risk management fostered shared responsibility for athletics compliance.

The risk-management approach at CSU required that a single individual be identified as the responsible party for each risk. This clarification and documentation of accountability was seen as a key step in managing the risk. In the High-Risk Working Group's risk plans, the athletics director (*not* the athletics compliance officer) was listed as the single responsible party for all 14 high-risk areas. Thus, at CSU the athletics compliance coordinator was seen as the compliance expert and adviser but not as the party with the ultimate or sole responsibility for compliance. Put plainly, the risk-management approach at CSU put the athletics director, not the compliance coordinator, under the gun. The compliance coordinator's role was to help the athletics director fulfill his compliance responsibility. The CSU compliance program did not seem compliance-coordinator-centric, as some programs at other institutions perhaps are. At CSU, the athletics-compliance coordinator did not appear to be the sole driver of all compliance-related actions, bearing the knowledge, responsibility, and pressure of compliance more or less alone. Instead, the athletics director, athletics-compliance coordinator, Athletics Council, and Institutional Compliance Office all played a significant part in compliance. William (system-wide compliance officer):

The key to the whole thing is having someone that is held accountable. It's not the compliance officer; it's the AD [athletics director]. I ask a lot of people the question "Who is the responsible party" and many times they come back and say this compliance person or that compliance person, and that is not right. It's the athletics director or the vice-president who are the real responsible parties.

The shared responsibility for athletics compliance included actual monitoring by Athletics Council subcommittee members. The subcommittee members served as additional resources for doing the work of monitoring compliance practices and evidence of controls.

Jack (athletics director):

I think one reason why we have to go about this method is when you don't have the staff to oversee it, like the I-A schools may have, this is one means by which you can assure that risks are being addressed, and we're doing appropriate monitoring by utilizing the resources you have, in our case, the Athletics Council.

11. Oversight controls put the final eyes outside the athletics department.

The risk-management approach at CSU emphasized that no additional assurance is gained by someone's checking of his or her own work. Operating controls, supervisory controls, and oversight controls were designed to be performed by different parties. At CSU, the athletics-compliance coordinator often performed a given compliance process himself or supervised a process performed by others (thus providing operating or supervisory controls). Oversight control was then performed by others, often Athletics Council members or Institutional Compliance Office staff. In other institutions, it can be said that the compliance coordinator is sometimes (or even often) seen as providing the final assurance on compliance (except for every-four-years, outside compliance reviews). In those cases, the compliance officer is often in the position of checking his or her own compliance efforts. This was not the case at CSU.

Julie (senior woman administrator):

The things that are considered, maybe not in terms of risk assessment, but maybe the key priorities . . . I mean like camp money and things like that, it just seems like it is a good practice to have different eyes on money and to have different people turning money in. I don't know how you could function safely without that.

12. Risk management instilled confidence in the compliance program.

It appeared at CSU that risk assessment created a sense of confidence that (a) knowledgeable people had brainstormed and analyzed the risks, (b) that decisions had been made about which risks were high priority, (c) that attention and resources were being allocated appropriately to the risks, and (d) that controls at multiple levels were in place for monitoring the risk-management plans. There was a general sense that the right things were being worried about and that energy was being put in the right places.

Dr. Winthrop (university president):

I think it's a heightened awareness on a regular, repeated basis. We're going through an exercise every year on risk analysis, and I think it requires that. That's not a guarantee that you won't have problems or even violations, but it highlights and underscores the significance of the issues and how important compliance is, and it looks at the high-risk areas and kind of puts it in front of your face. And I think there is a great advantage in that.

The Influence of Risk Assessment on Communication

Research Question 3 was *What influence does a prioritized list of athletics compliance risks have on the communication and decision-making dynamics among the*

compliance-office department, the athletics department, and the university administration? The following themes were identified as related to the influence of risk assessment on athletics-compliance communication and decision making.

13. Risk assessment informed the president about athletics risks.

At CSU, the risk assessment effort connected the university president directly with compliance. It can be said that a common concern among athletics-compliance officers is that compliance risks are, to some degree, in the closet. At CSU, risk assessment provided a structured message (in the form of prioritized risks and risk-management plans) that communicated to the administration about compliance exposure and plans in place to mitigate the exposure. Risk assessment also placed athletics risk in its proper context and proportion within the overall institution.

Dr. Winthrop (university president):

I am confident that we have solid procedures in place and a good structure to monitor compliance. However, I also know that there are no guarantees and that there can always be a violation or a breakdown even in very well-thought-out procedures. So vigilance, monitoring, and reinforcing expectations in terms of our coaches and student-athletes is really very important on a regular, ongoing basis.

14. Risk management in athletics occurred in a culture of transparency.

Risk management in athletics at CSU operated in a departmental culture of openness and transparency. An open-door, open-book mentality was evident. One can perhaps appreciate the significance of this by imagining that an academic department were to allow members of the campus to do spot checks on grade books, class assignments, and graded papers. Describing the oversight-control responsibilities of the

Athletics Council members, Jack, the athletics director, described matter-of-factly how teams of Athletics Council members periodically appeared, unannounced, to do checks, “Three at the most [on a team], and you never know when they’re going to come in.” Whereas a stereotype may exist elsewhere of athletics as defensive, or at least private, about internal operations, the opposite appeared to be the case at CSU. The willingness to have delicate issues discussed openly and to have sensitive areas crucial to athletics success (such as recruiting and eligibility) checked by outsiders seemed to be a success factor in risk management. Dr. Burns, a faculty member on the Athletics Council, stated, “I think they do an excellent job here. In my opinion, they share lots of information about a lot of things.” Openness appeared to be essential to successful risk management.

Richard (athletics-compliance coordinator):

What is good is that there are people that are really paying attention to us and asking questions that frequently are healthy and that we need to answer. It is another layer, and I welcome another layer. We can’t get too many outside people looking at what we do. I’ve changed my philosophy 100% on that . . . you know, I didn’t care [for] the intrusions, but now I view it as the most healthy thing for an athletics department to be involved in. I could see the dangers, some of the schools that got in trouble, they really had no one outside their program really knowing what they did. And some people almost killed their program because they may have thought they were doing it right, but they had no one really coming and checking to see if they were.

The institutional compliance program integrated athletics into the university. The broad membership and high level of involvement of the Athletics Council seemed to

integrate athletics into the university community. Jack, the athletics director, in describing the mission of the Athletics Council, stated, “We came up with this concept to empower them to do something and have them [be] in charge of monitoring our department.” The combination of (a) the broad membership from both academic and administrative areas, (b) the significance of the Athletics Council’s oversight-control responsibilities, and (c) the transparency of the athletics department seemed to make athletics an accepted and integral part of the university.

Dr. Winthrop (university president):

I think that since we do risk analysis in other areas of the campus, it says that athletics is one of the important segments of the campus. It doesn’t attach too much emphasis on athletics and treat it like it is its own enterprise; it treats it like part of the university, and I think that is the way it should be. It shouldn’t be neglected, nor should it be given some exalted status on the campus; it’s like any other department. It’s important, or it wouldn’t be here, and that’s an important message to send. Because I think that is where you run into problems is where athletics becomes an empire unto itself and it is isolated from the rest of the academic enterprise, and it needs to be a part of, not separate from.

Pamela (assistant director, system-wide compliance):

One of the interesting pieces to this, when they started working on their risk assessment they brought cross-culture, cross-department lines together. It changed the communication within the institutions, so you no longer had these separate silos. It’s not necessarily gone, but there is more communication between the silos.

William (system-wide compliance officer):

CSU had a compliance failure in their athletic program. And they fired their AD. And Jack [who had been at CSU] was appointed as interim and was ultimately selected, and his charge was to run a compliant program with integrity. And so he saw first hand what can happen to an athletic program. In fact, they were very close to doing away with athletics. It had such a negative impact on their university. He then had to embrace a process that would allow them to organize themselves in a way that they could follow the rules with very limited resources.

15. Three NCAA compliance risks evolved as perennial top priorities.

The risk-assessment process in athletics at CSU originally involved reviewing a list of 20 or more risks, rating their impact and probability on a scale of 1-10, and multiplying the scores to calculate and rank the risk priorities. However, after several years, three main risk areas arose (in the judgment of the Athletics Council) as the top ones faced by athletics: (a) student-athlete financial aid, (b) recruiting, and (c) eligibility. This phenomenon can be seen as both positive and concerning. On the positive side, increasing familiarity with risks lessened the need to review a checklist of risks to stimulate risk awareness and discussion. Also, there was a sense that some risks had been addressed and thus lowered in priority. On the concerning side, locking onto certain risks as standard ones could defeat the purpose of methodically reassessing risks and identifying new risks in a continually changing environment.

Some initially high risks were controlled and then lowered in priority. CSU addressed some initially identified risks, such as summer-camp finances and lightning safety, by reviewing and revising existing policies and procedures. Those risks, having

been addressed, were then no longer considered high priority. The exercise of identifying, addressing, and then lowering the priority of these risks was seen as valuable and as an essential part of the initial implementation.

Jack (athletics director):

Those kinds of risks made us look at our policy and procedure, review it, and either come up with a new one, revise it, improve it, and this allowed us to take that risk off.

There is, however, an opposing view on this. In particular, a subtle distinction arises as to whether a risk with a severe potential consequence should ever be lowered in priority. The opposing view is that a risk with a severe potential consequence should always be an A risk even though mitigation plans have been put in place.

Craig (system-wide compliance supervisor):

When does an A risk cease to be an A risk? Most of the time when we have A risks they are A risks because the consequences associated with the single occurrence are significant, and we don't want a single occurrence to occur. So, my opinion is that an A risk never becomes a B risk. . . . You can't change often the consequence of something happening, but you can impact the frequency in which they occur.

The NCAA's Perspective on Risk Assessment

Research Question 4 was *What influence does a risk-assessment approach have on an institution's interactions with the NCAA, which does not have a risk-assessment mindset?* The following themes were identified as related to the NCAA's perspective on risk assessment.

16. NCAA Enforcement sees its job as enforcing all rules.

NCAA Enforcement sees its role as enforcing all NCAA rules. When investigating an incident, NCAA Enforcement determines (a) whether a system was in place to prevent an infraction, (b) how the institution reacted to and reported the incident, and (c) whether indications of institutional control are evident. The Enforcement office does not wish to hamper enforcement by labeling any rules as more important or pertinent than others. Also, it does not wish to lessen institutional responsibility for control by prescribing funding or staffing levels for compliance. Thus, NCAA Enforcement focuses on ends rather than means. It appeared that the NCAA would, in essence, neither approve nor disapprove of risk management as an approach to athletics compliance. If risk management were to foster interdepartmental communication, shared responsibility, and adequate resources for compliance, then NCAA Enforcement would presumably look favorably on those impacts. Conversely, if the violation of a rule were not prevented because its possible occurrence had been deemed unlikely, the Enforcement office would not look favorably on that situation.

Dan (NCAA Enforcement staff member):

An institution's obligation is to monitor all aspects of their athletics program for compliance so there are not particular areas that we rank as more important than another. It's really going to come down to, if you have problems in an area that the institution was not monitoring sufficiently, it could be, and probably would be, a failure to monitor and maybe a lack of institutional control.

John (NCAA Enforcement staff member):

There is no question in enforcement; our job is to enforce the rules. In enforcement, our job is to process cases.

17. NCAA Enforcement sees the challenge of covering all rules but cannot relent.

NCAA Enforcement acknowledges that some schools can afford bigger compliance staffs than others. The Enforcement office is not unaware of the number and complexity of the rules or of the differences among schools. Nonetheless, NCAA Enforcement aims to stay true to its mission to enforce all rules. The Enforcement office does not wish to condone insufficient funding or staffing of compliance nor accept the excuses that “We don’t have time to cover everything,” or “We decided that was a low priority.” NCAA Enforcement does not envision itself providing relief in cases in which the likelihood of a violation was rated low and, then, an incident did in fact occur.

John (NCAA Enforcement staff member):

I can also tell you that those schools that have seven or eight [compliance staff members] oftentimes don’t think they have enough yet. There are some informal discussions going on about “How much is enough? When does it stop?” We had a compliance person at a school [with a large compliance staff] that went to the AD and said she needed another compliance staff position because “Here are the areas we aren’t monitoring.” And the AD’s response was “Okay, that’s fine, but when does this stop?” Part of the point that I make here is that schools at the top of the spectrum from the budget standpoint have similar problems that they face as the schools do that may have a one-person compliance staff.

We've gone in to the Committee on Infractions with allegations of lack of institutional control or failure to monitor at times when we felt the institution was not sufficiently staffed in compliance or when the compliance area was asking for more help. The Committee on Infractions has made it very clear that they will not take that into consideration. It's an institutional responsibility to sufficiently monitor the athletics program.

18. The NCAA advocates shared responsibility for compliance.

NCAA Enforcement strongly believes in the concept of shared responsibility for compliance. The Enforcement office sees the (spoken or unspoken) assignment of sole responsibility for compliance to the athletics-compliance coordinator as a misconception and mistake. NCAA Enforcement looks to the president, the athletics director, and even the coaches to be engaged in athletics compliance from their respective positions.

John (NCAA Enforcement staff member):

The compliance person needs to be comfortable going outside to someone. In some cases, you may have the athletics director encouraging noncompliance. I've seen schools where the president's office is partially responsible for the compliance budget. You see it a lot right after or during a major infractions case. You usually get a reporting line to the president. And it's about as close as you can get to an ideal situation during those times. But it takes going through a major infraction case and having those issues for an institution to really understand it. Especially from the president's office.

We understand the pressures that the compliance people particularly are under. . . . We also have to subscribe to the theme that compliance is an

institutional responsibility, not just one person who has been hired to pull it all together.

19. Self-reporting of infractions is seen as a sign of compliance health.

Although it may seem counter-intuitive, NCAA Enforcement views the self-reporting of infractions as positive. Self-reporting is seen as an indication that an institution's compliance effort is working. Conversely, a lack of self-reporting is seen as a warning sign that perhaps (a) monitoring is not occurring, (b) investigation of possible problems is not occurring, or (c) reporting is being squelched. Self-reporting indicates to the Enforcement office that rules are understood, monitoring is in place, and the responsibility of the institution to control itself is understood by all key parties.

John (NCAA Enforcement staff member):

When I was on the conference level, we kept tabs on reports from each institution. And the ones that had very low numbers of violations--one or two a year--we worried far more about them than the ones that were reporting 16, 17, or 18 violations. At the I-A level, it's impossible for you to go through and have zero violations, and if we're getting no reports, something is wrong there.

We had a president at a recent infractions-committee meeting who made the statement that they hadn't had a violation in five years. He thought he was in there really bragging. You could look up and see the committee members thinking, "What is going on here?" The president thought he was making a great point, but it was the exact opposite.

20. The bottom line for the NCAA is a high-functioning compliance program.

NCAA Enforcement's perspective is that delineating upfront the specifics of an adequate compliance effort would hurt its ability to enforce the rules. Its view is that decisions about what constitutes an effective compliance program are up to the institution. The Office sees the NCAA Committee on Infractions' Principles of Institutional Control¹⁰ as the framework from which institutions should make decisions about specific compliance-program practices. Rather than prescribe the acceptable scope and functioning of a compliance program, the Enforcement office's approach is to observe, when an incident has occurred, whether monitoring and other elements of institutional control, such as education and documentation, were in place.

John (NCAA Enforcement staff member):

It is possible, probably likely, that if you had a serious problem in one area that you had chosen to not to concentrate on, that you could end up with a failure to monitor and lack of institutional control. And part of that is being aware of or alert to problems.

We had a monster case at one university where a student-athlete had a summer job [in another part of the country] during the summer by a booster. The kids simply were not working. We had a discussion about that: How far do you really have to go to monitor that? Do you have to actually go on-site? You may decide that just because of your resources that you can't focus on that, but our position would also be you can't ignore it.

The Committee [on Infractions] put out a paper in 1996 where it set forth the principles of institutional control, and it believes that paper provides enough

guidance to institutions. It does not want to create a checklist where, if you do this, you will have the seal of good housekeeping. It believes those decisions should be made at the institutional level.

The Influence of Risk Assessment on Compliance Outcomes

Research Question 5 was *What influence does a risk-assessment experience have on compliance outcomes?* The following themes were identified as related to the perceived influence of risk assessment on compliance outcomes.

21. CSU was seen as having an effective athletics-compliance program.

CSU had experienced compliance problems earlier (under a different athletics director). Today, the athletics program is seen as having a well-functioning compliance operation. The perspectives of the conference compliance director, the institutional compliance director, and an Athletics Council member (all of whom are outside the athletics department) were that CSU's compliance effort is strong.

Ian (head men's basketball coach):

I would definitely say that compliance here is much stricter than other universities, based on what I see when I'm out on the road. There are no gray areas here at CSU.

Pat (conference compliance director):

It's a lot of work on their end, but anything that is providing additional reviews and checks and balances and having different people outside of the department, and even outside the university, look at what they think is a risk is going to help. It's going to help find things that otherwise wouldn't have been found.

William (system-wide compliance officer):

I would say that we have changed the culture. The culture is clearly to do the right things right. And when we started eight years ago, we didn't even know what risk assessment was, but now that term is used regularly throughout our everyday lives.

22. *Risk-management advocates see beyond compliance risks to all risks.*

Among risk-management advocates, adopting risk management in the area of compliance inevitably leads to considering other types of risk. Determining the institution's exposures, controls against those exposures, and assurances of the controls naturally seems to apply beyond complying with rules and laws. This thinking mirrors the progression of the Committee of Sponsoring Organizations (COSO), which produced its *Internal Control--Integrated Framework* (focused particularly on compliance) in 1992 and its *Enterprise Risk Management--Integrated Framework* (expanding its scope to strategic, operational, financial, reputational, and compliance risk) in 2004. This mindset was also seen in CSU's approach to athletics risks, which considered safety, gender equity, and fiscal management as well as NCAA rules compliance.

Pamela (assistant director, system-wide compliance):

The risk-assessment world has changed. . . . We've now moved to more of an enterprise-wide footprint. . . . So, you have more departments doing risk assessment instead of just those areas that you know need compliance operations. So, they're . . . moving the look of risk from just compliance to your operational, your strategic, and your financial. . . . Higher education has lagged in looking at

risk from an enterprise approach. They tend to pocket it where they've had problems.

William (system-wide compliance officer):

[Risk assessment] has moved quite frankly beyond compliance to all our business thinking, and we're fast approaching using enterprise risk management, so it's not only compliance risks, but it is financial risk, operational risk, and strategic risk.

The Risk-Based Compliance Process

As observed by the researcher, the risk-based compliance process at CSU has three major subprocesses: (a) risk assessment, (b) risk management, and (c) risk assurance (see Figure 7). A striking feature of risk assessment in athletics at CSU is the open discussion and prioritization of athletics risks. A prominent feature of risk management in athletics at CSU is an emphasis on multiple levels of controls to ensure that preventive practices are in place. A noteworthy feature of risk assurance in athletics at CSU is the participation of Athletics Council members as monitors of compliance practices. Descriptions of each of these subprocesses follow.

Risk Assessment

At CSU, risk assessment is the process of scanning the environment and identifying, rating, prioritizing, and reporting risks. The objective of risk assessment is to identify risks and rank them according to potential impact and likelihood of occurrence.

In the State University System, each institution submits a risk-based compliance plan to the System-Wide Compliance Office annually. To create the plan, each committee assigned to a high-risk area identifies, assesses, and prioritizes its risks. The risks are then

combined at the institutional level and reprioritized by the institutional compliance executive committee.

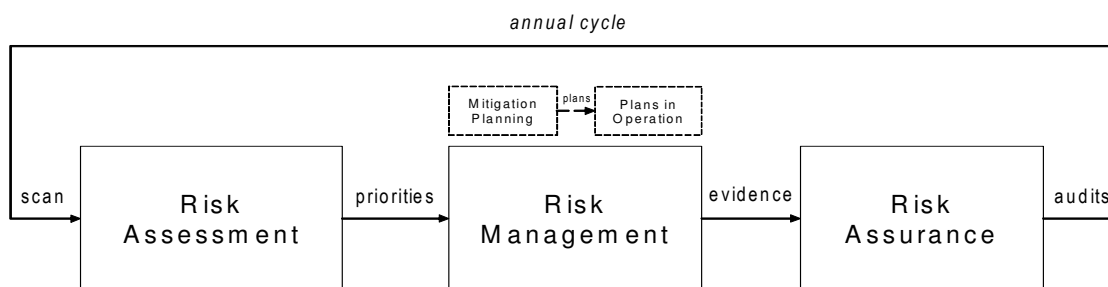


Figure 7. A process view of risk-based compliance at CSU as observed and drawn by the researcher on the basis of interviews. Risk management in compliance was observed to have three distinct subprocesses: (a) risk assessment, which produced risk priorities; (b) risk management, which put plans into operation and produced evidence of compliance actions; and (c) risk assurance, which produced audits of the compliance actions.

As a committee assigned to the high-risk area of athletics, the Athletics Council completes the following 14 steps:

1. Identify and document the goals and objectives of the high-risk area (intercollegiate athletics) within the context of Carston State University's mission statement.
2. Identify and document risks associated with the accomplishment of the goals and objectives. (What could go wrong? What must go right?)
3. Review the most current lists of risks to determine whether the risks identified in Step 2 are included on that list. (The previous year's lists of risks are

important considerations, but, at the same time, risks can also change because of changing laws and situations.)

4. Once the inventory of risks has been determined and documented, assess the probability of occurrence of each risk.
5. Assess the potential impact of each risk and ascertain whether there has been a previous occurrence of that risk.
6. For each risk, rate the probability of occurrence on a scale of 1 (lowest level of concern) to 10 (highest level of concern) and the potential impact on a scale of 1 to 10.
7. For each risk, multiply the probability rating and the impact rating, and rank-order the list of risks on the basis of the multiplied scores.
8. Separate the rank-ordered risks into an A list and B list, the A list reflecting the items of highest concern.
9. Submit the goals and objectives and the A and B lists to the Institutional Compliance Office.
10. Instruct the Institutional Compliance Office to combine the lists into institution-wide A and B lists.
11. Discuss, with the provost, senior vice-president for finance and administration, and institutional compliance officer the institution-wide A and B lists.
12. Present the institution-wide A and B lists to the Institutional Compliance Executive Committee.

13. Have the Institutional Compliance Executive Committee validate the institution-wide A and B lists.
14. On the basis of this information and after consultation with the institutional compliance officer submit the annual risk-based plan of compliance activities to the System-wide Compliance Office.

Viewed as a process, risk assessment starts with a scan of the environment as input and produces a prioritized list of risks as output. An athletics-compliance practitioner visiting CSU might notice in particular (a) the open discussion about risks faced in CSU's specific environment, (b) the clear determination that some risks are high priority, and (c) the corresponding acknowledgment that low risks will be given less attention.

Risk Management

At CSU, risk management is the process of (a) identifying specific risks within the broadly defined risks that were ranked as high priority, (b) developing risk-mitigation plans, and (c) implementing the plans. The objective of risk management is to create and implement mitigation plans that are openly shared, rigorously defined, and broadly supported.

Mitigation planning includes (a) defining a single responsible party; (b) reviewing relevant policies; (c) defining, clarifying, and updating processes and procedures; (d) conducting risk-specific training; and (e) determining operating and supervisory controls. Defining a single responsible party for the risk establishes an accountable owner. (At CSU, the athletics director is the responsible party for all athletics high-risk areas.) Reviewing policy involves decision making about principles and rules related to the risk

and its mitigation. Defining processes and procedures includes clarifying who does what, building in safeguards against missteps, and determining all operational details. Training includes communicating expectations and operational details to all who touch the process. Determining operating and supervisory controls involves (a) defining what day-to-day operators and managers will do to check the integrity of the process and (b) determining what auditable evidences of control will be produced.

Mitigation plans are then put into operation. Staff members (such as coaches and admissions and financial administrators) conduct operations and produce evidence of operating controls. Supervisors (such as the athletics-compliance coordinator) check the evidence of operating controls and produce evidence of supervisory controls. (A key principle is that no one can serve as a supervisory control on his or her own operating work.)

Viewed as a process, risk management starts with a prioritized list of risks as input and produces evidence of controls as output. A visiting athletics-compliance practitioner might particularly observe (a) the detailed attention that the risk-management methodology focuses on high-priority risks, and (b) the multiple controls defined in mitigation plans to ensure that compliance practices are being implemented.

Risk Assurance

At CSU, risk assurance is the review of risk management activities by parties outside the operating and management hierarchy to verify that controls are in place and functioning. Risk assurance is the implementation of oversight controls. It is accomplished primarily through review of evidence of operating and supervisory

controls. The objective of risk assurance is to provide verification from outside the chain of command that processes and controls are functioning as designed.

In athletics at CSU, risk assurance activities include (a) Athletics Council subcommittee monitoring, (b) internal audits and inspections, (c) annual NCAA financial audits, (d) conference compliance reviews, and (e) the NCAA Division I Athletics Certification Self-Study and Peer Review.

Subcommittee monitoring includes the review of the evidence of operating and supervisory controls. Athletics Council subcommittee members monitor (a) the admission of student-athletes, (b) the certification of student-athletes, (c) recruiting records, (d) playing and practice records, (e) sports scheduling, (f) student-athlete absences due to sports schedules, (g) Student-Athlete Advisory Committee meeting minutes, (h) grade point averages by sport, (i) graduation rates by sport, (j) the ratio of minorities by sport, (k) the gender and ethnic makeup of the athletics department staff, and (l) the sportsmanship and ethical conduct of students and staff during competitions. In addition, subcommittee members review compliance-function activities, such as (a) rules education, (b) rules violations, and (c) plans for preventing violations. Subcommittee members also monitor academic-support services and conduct exit interviews.

The Institutional Compliance Office annually audits one of the athletics program's top three risk areas (student-athlete financial aid, recruiting, and eligibility). The Internal Audit group of the Institutional Compliance Office conducts an annual financial audit of the Carston State athletics program. This financial audit is required of all Division I programs and is considered an oversight control.

The Mid-Central Conference conducts the NCAA-required compliance review every four years. The compliance review includes a prereview questionnaire and on-site interviews of athletics and institutional staff members, including the president. The review involves all aspects of NCAA rules and compliance procedures. The result is a set of recommendations to the athletics department. The compliance review by the conference is considered by Carston State to be an oversight control and part of outside risk assurance.

The NCAA's every-ten-years certification is also considered part of Carston State's athletics risk assurance. The Athletics Council members serve as the core of the certification committee and are joined by additional members. The three subcommittees of the Athletics Council (Governance and Commitment to Rules Compliance, Academic Integrity, and Equity and Student-Athlete Welfare) operate on a permanent basis and reflect the topic areas of the outside-certification review.

Viewed as a process, risk assurance takes evidence of controls as input and produces verifications of the controls as output. An athletics-compliance practitioner visiting CSU would likely notice (a) the participation by campus members in monitoring compliance practices and (b) the consideration of all outside audits and reviews as a set of oversight controls.

Summary

The athletics-compliance organization at CSU included its (a) system-wide compliance office, (b) institutional compliance executive committee, (c) institutional compliance office, (d) athletics council, and (e) athletics department staff members.

Twenty-two themes regarding the use of risk management in compliance were identified in the content of 12 interviews and 17 types of documents.

CSU was able to incorporate risk management into its athletics-compliance program. Athletics compliance was embedded in CSU's institutional compliance program. Risk management in compliance had commitment at the top. The university adopted a standard language of risk. Committee members scanned CSU's specific environment to identify risks. All types of athletics-related risks were considered. A single, active athletics-compliance committee was established. Compliance and certification activities were combined and aligned.

Risk management had a perceived positive influence on the athletics-compliance function. The methodologies of risk management and athletics compliance had to be reconciled. Risk assessment highlighted the challenge of covering all rules. Risk management fostered shared responsibility for athletics compliance. Oversight controls put the final eyes outside the athletics department. Risk management instilled confidence in the compliance program.

Prioritizing athletics risks influenced communication and decision making positively. Risk assessment informed the president about athletics risks. Risk management in athletics occurred in a culture of transparency. Three NCAA compliance risks evolved as perennial top priorities.

NCAA Enforcement appears to look neither favorably nor unfavorably on risk management, leaving decisions about compliance approaches to the institutions. NCAA Enforcement sees its job as enforcing all rules. NCAA Enforcement sees the challenge of covering all rules but cannot relent. The NCAA advocates shared responsibility for

compliance. Self-reporting of infractions is seen as a sign of compliance health. The bottom line for the NCAA is a high-functioning compliance program.

Risk management was perceived as having a positive influence on athletics at CSU. CSU was seen by informants both inside and outside CSU athletics as having an effective athletics-compliance program. Risk management advocates tended to see beyond compliance risks to the management of all types of risks.

The compliance process at CSU was observed to include risk assessment, risk management, and risk assurance. Risk assessment is done annually in high-risk areas. Prioritized risks are combined at the institution level and reported to the system level. Risk-management plans are developed, submitted, and implemented. Assurance activities occur to ensure that risk-management plans are in effect.

Chapter 5 contains a summary of the study, discussion of the themes in the interview data, recommendations regarding the implementation of risk-management in athletics compliance, and recommendations for related future research.

CHAPTER 5: SUMMARY AND CONCLUSIONS

The summary and conclusions are presented in four parts. The first part is a summary of the study. The second part is a discussion of the themes in the interview data in relation to the research questions, theoretical frameworks, and researcher's expectations. The third part is a set of recommendations for educational leaders regarding the use of risk management in athletics compliance. The fourth part is a set of recommendations for future research in athletics compliance and risk management in higher education.

Summary of the Study

The topic of this study was the use of risk assessment in athletics compliance and its influence on (a) the athletics-compliance function, (b) communication between athletics and the administration, (c) interactions with the NCAA, and (d) athletics-compliance outcomes.

Statement of the Problem

Risk assessment is not a standard operating procedure in athletics compliance. Plainly put, some (or even many) athletics-compliance officers make individual judgments about compliance priorities, given the resources they have, and hope for the best. The expectation of the study was that assessing institution-specific athletics-compliance risks and creating risk-management plans for high-priority risks would be beneficial to the athletics-compliance function, the athletics program, and the university president.

Purpose

The purpose of this study was to

1. Identify the methods and steps of implementing risk assessment in intercollegiate athletics compliance.
2. Evaluate the influence of a risk-assessment approach in athletics compliance on (a) the operation of the athletics-compliance function, (b) communication and decision making about athletics compliance at the institution, (c) interactions with the NCAA, and (d) athletics-compliance outcomes.

Theoretical Frameworks

The first theoretical framework was the description of risk-assessment procedures in higher education provided by Crawford et al. (2001). The framework indicated that risk assessment should include (a) identification of risks, (b) measurement of the risks in terms of potential impact and probability of occurrence, (c) prioritization of risks, (d) reporting of priorities, and (e) creation of risk-management plans.

The second theoretical framework was the updated U.S. Sentencing Guidelines for Organizations (U.S. Sentencing Commission, 2004). This framework indicated the elements of an effective compliance program. On the basis of the framework, an effective compliance program should (a) identify violations, (b) show evidence of a culture of compliance, (c) educate senior managers and trustees, (d) have active senior leadership, (e) prioritize on the basis of risk assessment, (f) establish compliance as a behavioral norm, and (g) emphasize ethics (Desio, 2004). The 2004 Sentencing Guidelines also include the original 1991 Sentencing Guidelines for compliance-program elements: (a) standards and procedures; (b) high-level oversight; (c) careful hiring and delegation; (d)

training and education; (e) monitoring, auditing, and nonretaliatory reporting; (f) response to violations; and (g) disciplinary action.

Research Questions

The research questions of the study were the following:

1. What are the specific methods and steps of incorporating risk assessment into athletics compliance?
2. What influence does a risk-assessment experience have on an athletics-compliance function's priorities, processes, and resource allocations?
3. What influence does a prioritized list of athletics-compliance risks have on the communication and decision-making dynamics among the athletics-compliance function, athletics department, and university administration?
4. What influence does a risk-assessment approach have on an institution's interactions with the NCAA, which does not have a risk-assessment mindset?
5. What influence does a risk-assessment experience have on athletics-compliance outcomes?

Design and Method

The design of the study was a descriptive case study in which interview data were collected and documents were reviewed at a single point in time. The researcher's objective was to document the characteristics and experiences of using risk management in athletics compliance, as described by the informants and reflected in relevant documents. The design of the study can also be described as a grounded theory design in that the researcher identified categories, or themes, in the interview data and a conceptual theory that connected the themes.

The State University System¹¹ was selected purposively as the research environment on the basis of the extensiveness of its system-wide institutional compliance program. Within the State University System, one university, Carston State University, was selected as the primary institution-level research site. The State University System's System-Wide Compliance Office, the Mid-Central Conference, and the NCAA were also included in the study in order to obtain multiple viewpoints.

Two kinds of data were collected: interview data and documents. Interviews were primarily one to one and face to face and 1-2 hours in length. The interviews were conducted at three locations: (a) the Carston State University campus, (b) the System-Wide Compliance Office, and (c) NCAA headquarters.

The study's informants at Carston State University were (a) the president, (b) the athletics director, (c) the institutional compliance officer, (d) a faculty member on the Athletics Council, (e) the athletics-compliance coordinator, (f) the senior woman administrator, and (g) the head men's basketball coach. The informants at the System-Wide Compliance Office, which oversees compliance at all of the institutions in its state university system, were (a) the system-wide compliance officer, (b) the assistant director of system-wide compliance, and (c) the system-wide compliance supervisor. The compliance director of the Mid-Central Conference, who conducted CSU's most recent external compliance review, also served as an informant. Finally, two members of the NCAA enforcement staff served as informants for the NCAA perspective on the use of risk assessment in athletics compliance.

Documents related to risk assessment and compliance were collected and reviewed. The documents were obtained from both CSU and the State University System. A complete list of the reviewed documents is included in Appendix D.

The interview data were analyzed through the use of coding, memoing, and concept charting. The documents were analyzed as evidence of the risk-assessment process and its influences.

The Compliance Organization

The data provided descriptions of the compliance organization. The compliance organization that guides athletics compliance at Carston State University includes (a) the State University System's system-wide compliance organization, (b) CSU's institutional compliance organization, and (c) CSU's athletics-compliance organization.

The State University System's compliance-related organization includes (a) the System-Wide Compliance Office, which provides oversight of compliance at all institutions in the System; (b) the network of institutional compliance officers, each located at an institution in the system; and (c) high-risk working groups, which are inter-institutional task groups focused on particular high-risk areas.

The institutional compliance-related organization at Carston State University includes (a) the Institutional Compliance Office, (b) the Institutional Compliance Executive Committee, and (c) a number of compliance subcommittees and individuals responsible for high-risk areas.

The athletics-compliance-related organization at CSU includes (a) the Athletics Council, (b) its subcommittees, and (c) key members of the Athletics Department.

Summary of the Themes in the Interview Data

Twenty-two themes were identified from the 12 interviews conducted and the 17 types of documents reviewed. These themes were distinct categories of the interview data. The themes are listed in Table 3 with the research questions to which they relate (see Chapter 4 for descriptions of the themes and supporting interview data).

Table 3

Summary of the 22 Themes Identified in the Interview Data

Research questions	Themes identified in the interview data
<p>Research question 1:</p> <p>What are the specific methods and steps of incorporating risk assessment into athletics compliance?</p>	<ol style="list-style-type: none"> 1. Athletics compliance was embedded in CSU's institutional compliance program. 2. Risk management in compliance had commitment at the top. 3. The university adopted a standard language of risk. 4. Risks were identified through scanning of CSU's specific environment. 5. All types of athletics-related risks were considered. 6. A single, active athletics-compliance committee was established. 7. Compliance and certification activities were combined and aligned.
<p>Research question 2:</p> <p>What influence does a risk assessment experience have on a compliance function's priorities, processes, and resource allocations?</p>	<ol style="list-style-type: none"> 8. The methodologies of risk management and athletics compliance had to be reconciled. 9. Risk assessment highlighted the challenge of covering all rules. 10. Risk management fostered shared responsibility for athletics compliance.

Table 3 (continued)

Research questions	Themes identified in the interview data
Research question 2 (continued):	11. Oversight controls put the final eyes outside the athletics department.
What influence does a risk assessment experience have on a compliance function's priorities, processes, and resource allocations?	12. Risk management instilled confidence in the compliance program.
Research question 3:	13. Risk assessment informed the president about athletics risks.
What influence does a prioritized list of athletics-compliance risks have on the communication and decision-making dynamics among the compliance function, the athletics department, and the university administration?	14. Risk management in athletics occurred in a culture of transparency. 15. Three NCAA compliance risks evolved as perennial top priorities.

Table 3 (continued)

Research questions	Themes identified in the interview data
<p>Research question 4:</p> <p>What influence does a risk-assessment approach have on an institution's interactions with the NCAA, which does not have a risk-assessment mindset?</p>	<p>16. NCAA Enforcement saw its job as enforcing all rules.</p> <p>17. NCAA Enforcement understands the challenge of covering all rules but cannot relent.</p> <p>18. The NCAA advocated shared responsibility for compliance.</p> <p>19. Self-reporting infractions was seen as a sign of compliance health.</p> <p>20. The bottom line for the NCAA was a high-functioning compliance program.</p>
<p>Research question 5:</p> <p>What influence does a risk-assessment experience have on compliance outcomes?</p>	<p>21. CSU was seen as having an effective athletics compliance program.</p> <p>22. Risk-management advocates saw beyond compliance risks to all risks.</p>

The Risk-Based Compliance Process

The risk-based compliance process at CSU was observed by the researcher to include three subprocesses: (a) risk assessment, (b) risk management, and (c) risk assurance.

At CSU, risk assessment is the process of scanning the environment and identifying, rating, prioritizing, and reporting risks. Risks are rated and ranked according to potential impact and likelihood of occurrence. In the State University System, each institution submits a risk-based compliance plan to the System-Wide Compliance Office annually. To create the plan, each high-risk area (such as athletics, research, or endowments) in an institution identifies, assesses, and prioritizes its risks. The risks are then combined at the institutional level and reprioritized by the institutional compliance executive committee.

At CSU, risk management is the process of (a) identifying specific risks within the broadly defined risks that were ranked as high priority, (b) developing risk-mitigation plans, and (c) implementing the plans. Mitigation planning includes (a) designating a single responsible party; (b) reviewing relevant policies; (c) defining, clarifying, and updating processes and procedures; (d) conducting risk-specific training; and (e) determining operating and supervisory controls. Designating a single party responsible for the risk establishes an accountable owner. Reviewing policy involves decision making about principles and rules related to the risk and its mitigation. Defining processes and procedures includes clarifying who does what, building in safeguards against missteps, and determining all operational details. Training includes communicating expectations and operational details to all who touch the process. Determining operating and

supervisory controls involves (a) defining what day-to-day operators and managers will do to check the integrity of the process and (b) determining what auditable evidences of control will be produced. Mitigation plans are then put into operation.

At CSU, risk assurance is the review of risk-management activities by parties outside the operating and management hierarchy in order to verify that controls are in place and functioning. Risk assurance is the implementation of oversight controls. It is accomplished primarily through the review of the evidence of operating and supervisory controls. In athletics at CSU, risk-assurance activities include (a) Athletics Council subcommittee's conducting monitoring activities, (b) internal audits and inspections, (c) annual NCAA financial audits, (d) conference compliance reviews, and (e) the NCAA Division I Athletics Certification Self-Study and Peer Review.

Discussion of the Themes in the Interview Data

The themes are discussed in relation to (a) the research questions, (b) the theoretical frameworks, and (c) the researcher's expectations.

The Themes in Relation to the Research Questions

Discussion of the themes as they relate to each research question follows.

Incorporating Risk Assessment into Athletics Compliance

Research Question 1 was *What are the specific methods and steps of incorporating risk assessment into athletics compliance?* It is a conclusion of this study that CSU was successfully able to incorporate risk assessment into its athletics-compliance program.

Risk assessment was actually a subprocess (together with risk mitigation and risk assurance) of the larger process of risk management at CSU. Perhaps the most striking

aspect of risk assessment in CSU athletics was the open listing, prioritizing, and discussing of athletics risks. A similarly striking aspect of risk mitigation was an emphasis on multiple levels of controls such that no person served as a check on his or her own work. The most noticeable aspect of risk assurance was the participation of Athletics Council members as monitors of compliance practices with full access to athletics operations. All of these aspects appeared to be successfully implemented and were described positively by the informants.

CSU's approach to culture change. It has been noted that instituting change is difficult in loosely coupled organizations, such as universities (Baldrige, Curtis, Ecker & Riley, 1977; Cohen & March, 1974, 1986; Weick, 1976). Nonetheless, several informants referred to the adoption of institutional compliance and risk management at CSU and in the State University System as a successful culture change (albeit one still in progress).

Three factors emerged in the interview data as keys to the successful culture change: (a) a systematic process, (b) the tone at the top, and (c) multiple messages about compliance. These factors all seemed essential and to support each other. Thus, a three-legged stool seemed an apt analogy for this observed approach to culture change (see Figure 8).

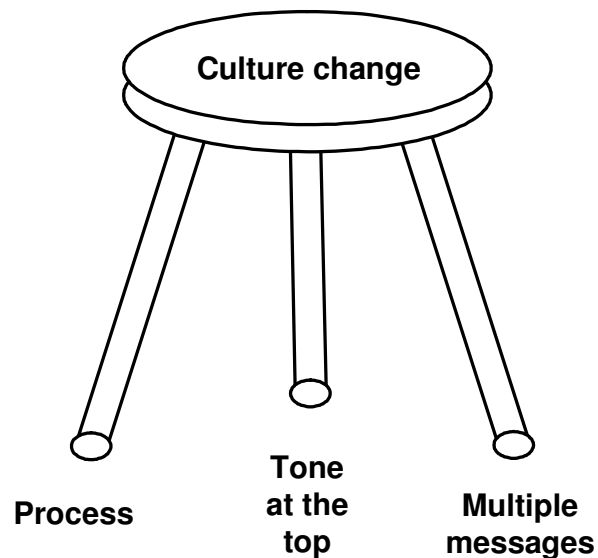


Figure 8. CSU's approach to culture change as observed and drawn by the researcher.

Three elements in successfully moving toward a risk-based compliance culture appeared to be (a) a systematic process, (b) a compliance-oriented tone at the top, and (c) multiple messages within the institution about the importance of compliance.

The tone at the very top was set by the board of regents' mandate for system-wide institutional compliance. At the institutional level, CSU's president reviewed the institution's prioritized risks and risk plans and spoke with the athletics directors and coaches about compliance. In CSU's athletics program, the athletics director set a tone of openness and inclusiveness with the Athletics Council regarding risks and compliance. There seemed no doubt among the informants that compliance had the attention of the chain of command.

The compliance process at CSU and in the State University System was detailed and methodical. Working groups and committees were formed. Procedures were defined,

and instructions, forms, and templates were provided for each step. Risk assessments were conducted and risk-management plans were created. Committees submitted reports on risk areas to their institutions, which in turn submitted reports on institutional risks to the State University System. Operations were reviewed and audited. The process might be described by some outside observers as control oriented. But the thoroughness of the approach appeared to pay off at CSU in the integration of risk-based compliance into the fabric of operations.

The faculty and staff of CSU received continual, multiple messages about the importance of compliance, in the form of training, written communications, and meetings. Compliance training was provided for all employees in the State University System. Specific training on how to complete risk-management plans was conducted at the institutional level. Athletics Council members received training related to the athletics operations that they were asked to monitor. It seemed that the message that compliance was important was repeatedly conveyed.

The Influence of Risk Assessment on the Compliance Function

Research Question 2 was *What influence does a risk-assessment experience have on a compliance function's priorities, processes, and resource allocations?* A conclusion of this study is that risk management had an influence on the athletics-compliance function that was perceived as positive. Three noticeable characteristics of the function included (a) an openness about compliance risks, (b) a shared responsibility for compliance, and (c) multiple levels of controls.

Openness about compliance risks was evident in the open discussion of compliance risk in the Athletics Council and in written reports to CSU's Institutional

Compliance Office about athletics risk priorities and risk plans. Concerns about rules and risks were stated plainly and publicly in the CSU athletics program. This included open dialogue with the administration (including the president) about compliance.

Shared responsibility for compliance was evident in that (a) the athletics director was assigned as the single party responsible for all athletics risks, and (b) Athletics Council members participated as reviewers of athletics operations. Whereas some athletics-compliance coordinators complain of having sole responsibility for compliance and no help, the opposite was true at CSU.

Multiple levels of controls were built into risk-management plans at CSU. Thus, there was public proof that procedures were operated as planned, as well as outside eyes on key risk areas. Also, with multiple checks, it appeared that pressure on a single individual to look the other way was less likely.

The Influence of Risk Assessment on Communication

Research Question 3 was *What influence does a prioritized list of athletics-compliance risks have on the communication and decision-making dynamics among the compliance function, athletics department, and university administration?* Prioritizing athletics risks appeared to influence communication and decision making in a positive, healthy way. In particular, risk assessment provided a structured method of communicating with the president about athletics risks.

A theme in the interview data is that risk management in athletics occurred in a culture of transparency. This characteristic of transparency can be seen as part of a broader culture of communication in CSU athletics. Several cultural characteristics of communication about compliance and risk were observed: (a) clear accountability, (b)

multiple controls, (c) empowered participation, (d) transparency about risks and mitigation plans, (e) rationality about institution-specific risks, and (f) presidential awareness (see Table 4 for aspects of the themes that relate to these cultural characteristics). It is fair to say that these characteristics are not universal in all athletics-compliance programs. It would not be surprising to hear an athletics-compliance practitioner describe the compliance culture at his or her institution as the opposite, that is, having (a) accountability focused mainly on the compliance person, (b) single controls, (c) little outside review, (d) a closed-door culture, (e) an irrational mindset that all compliance risks can be covered equally, and (f) either no or highly edited communication with the president.

Table 4

Cultural Characteristics Related to Communication and Decision Making about Athletics Compliance

Observed cultural characteristics	Aspects of the themes related to the cultural characteristics
Accountability	<p>The athletics director was formally and publicly designated as the single party responsible for athletics compliance.</p> <p>The risk-management procedures then demonstrated that accountability by providing him with reports on status and requiring his sign-off on various control documents.</p>
Controls	<p>Multiple levels of controls existed in the risk-management plans. No one served as the control on his or her own work.</p> <p>Evidence of controls was emphasized. Oversight control was conducted by individuals outside the athletics department.</p>
Participation	<p>The Athletics Council was not a symbolic organization but an active body empowered with compliance responsibilities and access to information. The Athletics Council's 20 members represented broad campus participation.</p>

Table 4 (continued)

Observed cultural characteristics	Aspects of the themes related to the cultural characteristics
Transparency	An atmosphere of transparency existed in the athletics program. This was evident in the frank discussion about athletics risks in the Athletics Council and with the Institutional Compliance Office, as well as the openness in having members of these groups monitor athletics-compliance processes.
Rationality	The athletics program did not attempt to portray itself as having every possible risk and rule covered. The mindset was that on the basis of knowledgeable assessment of the particular CSU environment, special attention should be paid to highly prioritized risks.
Executive awareness	The president was in the loop about institutional risks, including athletics-compliance risks. Knowledge of compliance risk was not closeted in the athletics department.

The NCAA's Perspective on Risk Assessment

Research Question 4 was *What influence does a risk-assessment approach have on an institution's interactions with the NCAA, which does not have a risk-assessment mindset?* A conclusion is that risk management had no perceived influence, positive or negative, on CSU's interactions with the NCAA.

All processes related to the NCAA appeared to proceed normally. CSU self-reported secondary violations as discovered. It received its every-four-years, NCAA-required, outside compliance review by its conference. CSU was initiating preparation for its every-ten-years NCAA athletics certification at the time of this study.

An observation of this study is that NCAA Enforcement looks neither favorably nor unfavorably on risk management, leaving such decisions about (and responsibility for) compliance programs to individual institutions. If risk management were to be helpful in garnering support and shared responsibility for compliance, the NCAA would presumably look favorably on it. But an athletics program adopting risk management should expect no special treatment from the NCAA regarding its enforcement of risks.

A conclusion is that because the NCAA's Principles of Institutional Control (see Chapter 2) do not mention risk assessment, there is no official acknowledgment by the NCAA that an athletics program cannot monitor every rule equally. This is however intuitively true from an athletics-compliance practitioner's viewpoint at the institution level and must be faced, and this study concludes that risk management is a rigorous, rational means of doing so.

The Influence of Risk Assessment on Compliance Outcomes

Research Question 5 was *What influence does a risk-assessment experience have on compliance outcomes?* It is a conclusion of this study that risk management had a positive influence, as perceived by the informants, on athletics compliance at CSU.

CSU's compliance program was viewed as effective by its outside reviewer (the Mid-Central Conference compliance director). The CSU informants who were outside the athletics department echoed this, as did the State University System informants. Several informants indicated that the compliance effort had improved since the tenure of an earlier administration. A number of informants described CSU athletics' culture of compliance, emphasis on ethics, and strict expectations for behavior.

The Themes in Relation to the Theoretical Frameworks

Discussion of the themes as viewed through the conceptual lenses of the two theoretical frameworks follows. The first theoretical framework describes the risk-assessment procedures. The second theoretical framework outlines the elements of effective compliance programs.

Risk-Assessment Procedures

Viewing the themes through the description of risk-assessment procedures provided by Crawford et al. (2001) revealed that risk assessment did in fact occur at CSU. The interview data indicated that risks were (a) identified, (b) rated on potential impact and probability of occurrence, (c) prioritized, (d) reported at the institutional level, and (e) addressed with risk-management plans. Table 5 shows the risk-assessment procedures described by Crawford et al. (2001) and the aspects of the themes related to risk-assessment procedures observed by the researcher at CSU.

Table 5

The Themes in Relation to the Risk-Assessment Procedures described by Crawford et al. (2001) as a Theoretical Framework

Risk-assessment procedures (Crawford et al., 2001)	Aspects of the themes related to risk-assessment procedures
Identification of risks	Athletics Council members reviewed and discussed a list of athletics-risk areas. The list included risk areas noted by the State University System's High-Risk Working Group as well as other risk areas identified at CSU.
Measurement of risks on potential impact and probability of occurrence	Athletics Council members rated each risk on potential impact and probability of occurrence on scales of 1 to 10.
Prioritization of risks	The impact and probability scores were multiplied, and the risks were ranked according to the multiplied scores. The rank-ordered list was then divided into A (higher) and B (lower) risks.
Reporting of priorities	The A risks were reported to CSU's Institutional Compliance Office.

Table 5 (continued)

Risk-assessment procedures (Crawford et al., 2001)	Aspects of the themes related to risk-assessment procedures
Creation of risk-management plans	Risk-management plans were created for highly ranked risk areas. The plans included (a) identification of specific risks, (b) designation of responsible parties, (c) clarification and documentation of policies and procedures, (d) training, and (e) multiple levels of controls.

At CSU the risk-assessment activity evolved somewhat. During several annual iterations, a list of risks was reviewed and discussed, and risks were arithmetically rated and ranked. Eventually, three high-risk areas (recruiting, financial aid, and eligibility) were seen as perennial top priorities and the risk-assessment process became less formalized. This evolution can be viewed in two ways. On the one hand, it is understandable that the Athletics Council's multiyear familiarity with its athletics risks would lead to consensus on a set of ongoing top risks. On the other hand, de-emphasizing the formal steps of risk assessment may mean that a new risk appearing on the horizon (such as a significant rule change) might be missed.

U. S. Sentencing Guidelines

Viewing the themes through the updated U.S. Sentencing Guidelines for Organizations (U.S. Sentencing Commission, 2004) showed that the compliance program in athletics at CSU was perceived as effective. The interview data indicated that program elements, such as risk assessment, standards and procedures, high-level oversight, training, monitoring, auditing, and disciplinary action, were in place. The interview data also indicated that softer aspects of effective compliance, such as a culture of compliance, compliance established as a behavioral norm, and an emphasis on ethics, were also evident. Table 6 shows the list of compliance-program elements indicated by the U.S. Sentencing Guidelines and aspects of the themes related to compliance-program elements observed by the researcher at CSU.

The comments of all CSU informants indicated that the athletics-compliance program is a well-functioning operation, a high priority, and the subject of much attention. In particular, the perspectives of the conference compliance director, the institutional compliance director, and an Athletics Council member (all of whom function *outside* the athletics department) were that CSU's compliance effort is strong.

Table 6

The Themes in Relation to the U.S. Sentencing Guidelines as a Theoretical Framework

Compliance-program elements (U.S. Sentencing Guidelines)	Aspects of the themes related to compliance-program elements
Identify violations	CSU self-reported several secondary violations per year.
Show evidence of a culture of compliance	A culture of compliance was evident in (a) the open discussion of risks in the Athletics Council, (b) the reporting of athletics-risk priorities at the institutional level, and (c) the involvement of the Athletics Council in monitoring compliance activities.
Educate senior managers and trustees	Compliance training was conducted at the institutional level by CSU's Institutional Compliance Office. Athletics-compliance training was also conducted for Athletics Council members.
Have active senior leadership	Institutional compliance was mandated by the State University System's board of regents. CSU's president reviewed the institution's prioritized risks. At the athletics-program level, the athletics director actively led the Athletics Council.

Table 6 (continued)

Compliance-program elements (U.S. Sentencing Guidelines)	Aspects of the themes related to compliance-program elements
Prioritize on the basis of risk assessment	Athletics risk areas were identified and prioritized annually, and risk-management plans were created for high-priority risks.
Establish compliance as a behavioral norm	CSU's institutional compliance program provided an organizational context for athletics compliance. Multiple levels of controls provided checks and balances on behavior. Ian, the men's basketball coach, observed, "There are no gray areas here at CSU."
Emphasize ethics	An ethical tone was evident at CSU. William, the system-wide compliance officer, stated, "We work very hard with our board and president to set the right example in this process. . . . It starts at the board, and it goes all the way down to the coaches."
Standards and procedures	Athletics high-risk areas were well-documented. Risk-management plans served as written directions for performing key operations. CSU's institutional compliance program required specific procedures, such as reporting prioritized risks.

Table 6 (continued)

Compliance-program elements (U.S. Sentencing Guidelines)	Aspects of the themes related to compliance-program elements
High-level oversight	Oversight was provided at the system level by the System-Wide Compliance Office, at the institutional level by the Institutional Compliance Office and Institutional Compliance Executive Committee, and at the athletics level by the Athletics Council.
Careful hiring and delegation	The CSU athletics program tended to promote from within, so staff members are known. The athletics director was assigned as the single responsibility party for all athletics risks (thus, responsibility for compliance was not delegated below that level).
Training and education	Compliance training was provided to all employees in the State University System. CSU's Institutional Compliance Office provided training in completing risk-management plans. Athletics Council members received training related to the areas they monitored.

Table 6 (continued)

Compliance-program elements (U.S. Sentencing Guidelines)	Aspects of the themes related to compliance-program elements
Monitoring, auditing, and nonretaliatory reporting	Athletics Council members monitored high-risk areas. The Institutional Compliance Office conducted audits of operations that were high-priority risks. Self- reporting of violations by coaches was expected.
Response to violations	The athletics compliance coordinator responded in writing to Athletic Council monitoring reports. Corrective actions were included in self-reports.
Disciplinary action	CSU's previous athletics director was terminated because of a compliance failure. Richard, the athletics- compliance coordinator, stated about CSU, "If you're trying to take advantage of the rules and get an advantage over anyone we compete with, you're going to be fired."

The Themes in Relation to the Researcher's Expectations

The researcher's preliminary biases and expectations were largely confirmed. An initial emphasis on risk assessment was broadened to an understanding of the larger process of risk management.

Initial Expectations

An initial expectation was that the Carston State University informants would describe risk assessment as a positive element of both athletics and institutional compliance. This expectation was confirmed. The informants at CSU and the System-Wide Compliance Office described risk assessment as valuable. It was commonly expressed that every risk and rule cannot possibly be given equal attention, and, therefore, risk areas have to be prioritized. The Mid-Central Conference compliance director also described, from an outside perspective, the positive value of the risk-based approach of CSU's compliance program.

Another expectation was that the informants would share the procedural details of implementing risk assessment. This expectation was confirmed. The informants were forthcoming and candid and described the procedures of risk assessment and risk management in detail.

The researcher also expected that as a result of an emphasis on risk assessment, the informants would report that risk priorities, risk mitigation, and compliance resource allocation were discussed in a more rational and above-board manner than perhaps occurs at other institutions. This expectation was confirmed. Risks, plans for mitigating risks, and reviews of operations were discussed openly in the CSU athletics program. Interestingly, despite open communication about the volume, probability, and potential impact of compliance risks, additional staff were not allocated to CSU's athletics-compliance function. The compliance function remained staffed by one compliance practitioner and an administrative assistant. However, additional resources for

compliance monitoring were in effect obtained through the use of services of Athletics Council members as reviewers.

The researcher expected that the risk-based institutional compliance culture of the State University System had facilitated the use of risk management in athletics compliance at Carston State University and that implementation of risk management at other Division I institutions (without such cultural support) might be more challenging. This expectation was confirmed. The system-mandated institutional compliance program provided (a) top-down direction of compliance as a required activity; (b) a clearly defined organization and process; (c) resources in the form of help from the System-Wide Compliance Office and CSU's Institutional Compliance Office; and (d) content knowledge in the form of terminology, lists of risks, and templates of plans.

Initial Emphasis on Risk Assessment

The researcher's preliminary view of risk was focused on risk *assessment*. However, it became clear during the study that CSU's risk approach included risk *assessment*, risk *management* (mitigation), and risk *assurance*. Although risk assessment is perhaps the most noticeable feature of a risk-based approach at first glance, risk management and risk assurance are equally significant. The risk-management process includes the key elements of a single responsible party and multiple levels of controls. The risk-assurance process includes the key feature of regular monitoring of athletics operations by parties outside the athletics department (at CSU, the Athletics Council members and the Institutional Compliance Office).

In retrospect, the Crawford et al. (2004) description of risk-assessment procedures, used as one of the study's theoretical frameworks, was focused

(understandably) only on risk *assessment*. A broader process model of risk assessment, risk management, and risk assurance evolved as a theoretical lens during the study.

Recommendations for Educational Leaders

The following recommendations are offered for educational leaders who wish to consider adopting a risk-based approach to athletics compliance. The recommendations include (a) possible misconceptions about risk assessment, (b) varying levels of risk sophistication observed by the researcher, (c) elements that appeared essential for effective implementation, (d) comments about the influence of institution-wide risk-based compliance on athletics, (e) a possible role of conferences in risk-based compliance, and (f) a comment on the issue of where athletics compliance should report.

Possible Misconceptions about Risk Management

It is possible that a natural first reaction to risk assessment by athletics-compliance practitioners could be something like “We do this already. We all make decisions about where our programs are vulnerable, and we focus our energies there.” Private subjective decisions about hot spots by compliance coordinators should not be confused with the methodical process and group consensus of identifying, rating, and prioritizing compliance risks. True risk assessment involves publicly acknowledging and agreeing that energies are being focused in certain areas and not in others. This is the opposite of a private decision made by a compliance officer about where to spend his or her effort.

A second reaction to risk assessment by athletics-compliance practitioners could be along the lines of “This sounds good. I don’t think our athletics director would go for this, but I’ll just start doing it on my own.” Risk assessment should be seen as a group

rather than an individual endeavor. The collective wisdom of the group is employed, and the burden of risk management is shared. The risk assessment approach is the opposite of a compliance coordinator's making solo decisions about priorities and allocation of effort.

A third reaction to risk assessment could be "We don't need this because we've never had a big problem here." Paradoxically, although risk assessment is designed to avoid crises, it seems to take a crisis to underline the need for risk management. The experience of a crisis (or the awareness of a crisis elsewhere) seems to make the case for risk assessment and create appreciation for the range of existing risks. Several of the schools with active institution-wide compliance programs started them after eye-opening negative experiences (Crawford et al., 2001; University of Washington, 2006).

Pamela (assistant director, system-wide compliance):

It's having the vision, [not] "We've never had an incident, therefore, we're never going to have an incident." I've watched people rate everything as medium-to-low risk because it has never happened before. But it only takes one time. So, sometimes the challenge for us is, are they thinking broadly enough and anticipating enough?

Craig (system-wide compliance supervisor):

Institutions have limited resources. I can't think of a single institution that says we have too many resources. Maintenance of stairway lights might be low on the totem pole of all the other things you could take care of, but an institution just got fined a million dollars by the family of someone who was killed in a stairway

because lights were burned out. Something you thought may be inconsequential-- now we have precedence.

Levels of Risk Sophistication

A pattern of various degrees of understanding about risk and risk management was observed during data collection. Five levels of risk sophistication became evident as the informants described their experiences and observations. Some informants described how their own thinking had developed, and some described how others' perceptions had evolved. These different levels of appreciation were so noticeable that a model regarding how the views of participants develop during the adoption of risk management emerged. This model could be used to predict reactions in other organizations as they implement risk assessment (see Figure 9). The model shows five levels of risk sophistication.

Level 1: Adherence. The most basic level of understanding about risk management was adherence to the required steps and procedures required. At this level, risk management was seen as conversations to have, activities to complete, forms to complete, and reports to submit. The sense was that individuals and groups need to comply with a program that the institution is implementing.

Level 2: Awareness. The second level of understanding was an appreciation of the range and magnitude of the risks faced by the organization. At this level, the number and size of the risks were observed, the inadequacy of controls in some areas was seen, and the general exposure of the organization was noticed. The sense was that risks are real, that incidents have happened elsewhere and could happen here, and that the organization should take steps to protect itself.

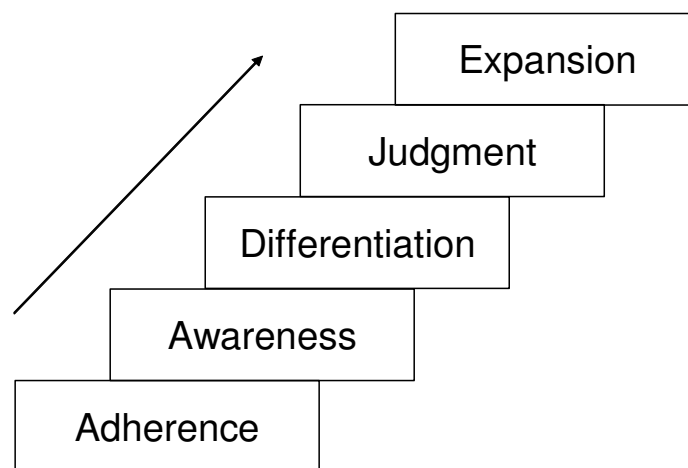


Figure 9. Levels of risk sophistication as observed and drawn by the researcher. As informants described the evolution of a risk mindset at CSU, the researcher noticed a consistent pattern. The first reaction among staff tended to be adherence to the new process, then awareness that significant risks existed, then appreciation that risks were different at different institutions, then a focus on judging and prioritizing risks, and, finally, interest in expanding the risk approach beyond compliance risks.

Level 3: Differentiation. The third level of understanding was a realization of the particular risks of the individual institution as differentiated from other institutions, based on its circumstances and constraints. At this level, comments were heard about “what we face here” and “we’re in a different situation than that institution there.” The sense was that all risks cannot be covered equally with limited resources, and thus, each institution must make its local determinations about exposure and mitigation.

Level 4: Judgment. The next level of understanding was a sensitivity to the factors that make one risk more serious and higher priority than another. At this level, the comments were about being knowledgeable about the local environment and about being conscious of severe consequences even if they were unlikely. The sense was that risks could definitely be prioritized and that some were much higher than others.

Level 5: Expansion. The final level of sophistication was the application of risk management beyond compliance risks to strategic, financial, and operational risks. At this level, there was an interest in enterprise risk management and in using risk-management concepts and practices as a normal part of executive management. The sense was that risk management is a useful general mindset and that compliance risk is only one type of risk that an institution faces.

Nine Essential Elements for Implementation

The following nine elements appeared to be critical to successful implementation of risk management in athletics compliance.

1. *Risk assessment should relate to the particular environment of the institution.*

Risk assessment should be specific to an institution's environment. New rules, rules changes, new situations in individual sports, new student-athletes with special circumstances (such as transfer or international students), and changes in travel or facilities are just a few of the specific elements of the environment that affect the identification and rating of risks.

2. *All athletics risks, not just compliance risks, should be considered.*

Considering all athletics risks garners the attention of all athletics stakeholders and makes discussion accessible to those not expert in the rules. Physical

safety and Title IX equity are examples of athletics risks that are not specifically NCAA-rules related, but should be considered. Of the 74 specific athletics risks identified by the State University System's High-Risk Working Group, 49 (66%) were related to NCAA rules, and the rest were related to (a) gender equity; (b) certification; (c) conference rules; (d) student-athlete welfare, safety, and health; (e) facilities safety and inclement weather; and (f) fiscal management.

3. *Risk assessment should start at a high conceptual level, but high-risk areas must be reduced to specific, actionable risks.* Initially, the discussion of risks should be at a high level so that the full range of athletics risks can be scanned and considered. But identified risk areas (such as eligibility, recruiting, and benefits) must be broken down into specific risks so that risk mitigation plans can be created. Otherwise, the initial discussion of risks can appear to be merely an intellectual exercise or a big-picture overview for executives. Drucker (1993) observed, "If objectives are only good intentions they are worthless. They must degenerate into work" (p. 101). Similarly, risk assessments must degenerate into specific decisions about areas of emphasis for compliance activity.
4. *In risk prioritization, careful attention should be paid to the consequence of a risk if it were to occur.* A risk with a catastrophic consequence should not be ignored because it has never happened, its possibility seems remote, or policies are in place. Otherwise, stakeholders could convince themselves that their program faces no significant risks. Risks with catastrophic or major

impact should be considered major even if their probability is deemed unlikely or rare.

5. *Some risk mitigation steps should be seen as stronger than others.* When a risk mitigation plan is created, common-sense questions should be asked about its preventive power. A plan might include adding a policy to the policy manual, but one should ask, “Do people actually look in the policy manual?” Once a policy is stated, it is likely that defining an accompanying procedure adds strength, providing training on the policy and procedure adds more strength, and monitoring the actual operation of the procedure adds still more strength.
6. *A single responsible party should be assigned to each high-risk area.*
Assigning a single responsible party to a risk area is a powerful mitigation step. At CSU the single responsible party for all athletics risks is the athletics director (not the athletics-compliance coordinator). The single responsible party is then likely to (a) call for better information about steps and status, (b) clarify others’ responsibilities, and (c) personally sign-off on decisions and reports about the risk area.
7. *Multiple levels of controls should be implemented.* The principle that no one should serve as the control on his or her own work should be adopted. Three levels of control--operating controls, supervisory controls, and oversight controls--should be built into risk mitigation plans. The purpose of multiple controls is to prevent problems from being buried and to ensure that mitigation plans operate as planned.

8. *A commitment to openness and transparency should accompany the risk-management methodology.* Rating athletics risks on a scale of 1 to 10 is not likely to be helpful if the athletics program is not ready to discuss risks and control procedures openly and to allow members of the campus to observe, comment, and check on the risks. The athletics program should be open to frank communication and outside review.
9. *The athletics-compliance committee should be made a key party and partner in risk management.* Risk management gives the athletics-compliance committee¹² a critical (rather than merely symbolic) role. The committee members can provide much-needed additional manpower for compliance monitoring. By being deeply involved in a trusted role, the committee can also be a positive connection between athletics and the rest of the campus.

Can Athletics Proceed Without an Institution-Wide Program?

Carston State University athletics implemented risk management in the context of an institution-wide compliance program. The institution-wide program provided several benefits: (a) a top-down mandate, (b) a compliance organization and process, (c) resources and help, and (d) supporting tools and information. Can another athletics program adopt risk management if its institution does not have an institution-wide compliance program?

It seems that an athletic program could adopt a risk management approach on its own. Even in the absence of an institutional program, (a) athletics risks could be identified and prioritized, (b) risk-management plans could be developed for high-priority risks, (c) a single responsible party could be assigned to each high-risk area, (d) multiple

levels of control could be defined, and (e) an athletics compliance committee could be given responsibility for monitoring. The athletics department could decide to be open and transparent about its risks and risk-management plans, both to its compliance committee and its administration.

Nonetheless, it seems intuitive that implementation in the context of an institutional compliance program would be easier. Departments that touch athletics would understand the language and concepts of risk management. The administration would have a context for discussing athletics risks. Resources would be available to assist in training, development of risk plans, and monitoring.

An Opportunity for Conferences

In adopting risk management, CSU athletics benefited from being part of the State University System by sharing tools, ideas, and information with other institutions. How can other schools obtain similar benefits? One idea is that athletics conferences could sponsor the adoption of risk-based compliance among member institutions. Risk-management plans should not be considered confidential information or competitive advantages. On the contrary, all of the schools (and the conference itself) would benefit from enhanced compliance. The benefits of conference-coordinated risk management in athletics compliance would include the following:

1. By definition, the schools in any conference are roughly similar with regard to size, resources, and competitiveness and thus face similar athletics risks. This similarity would provide a common context for sharing risk approaches.
2. Working as a conference on mutually beneficial plans would provide a collegial environment for athletics-compliance coordinators. Athletics-

compliance coordinators typically do not have an avenue for openly sharing compliance-program details.

3. Conference-based discussions would produce a wider, more diverse set of ideas about approaches to compliance risks. Compliance coordinators have tended to have primarily only their own institutions' perspectives on compliance.
4. The schools in a conference could share all forms, templates, and training materials as well as a common set of compliance and risk terminology. The additional work associated with assessing risks and creating plans could be offset by the sharing among the schools.
5. The schools in a conference could share their actual lists of prioritized risks and risk-management plans. Schools could learn from each other, share techniques, and test different mitigation plans.
6. Schools could conduct peer reviews of each other's compliance programs. This would provide an additional source of risk assurance.

Where Should Athletics Compliance Report?

A topic of some debate is whether athletics compliance should report inside or outside of athletics. The two sides are fairly clearly drawn. The argument for athletics compliance's reporting *inside* athletics is that the athletics director is responsible for compliance and thus should have control over the compliance function as the means of fulfilling that responsibility. In addition, there is a daily, even hourly, need for customer service as coaches and administrators ask for rules interpretations, help with waivers, and advice about what is allowable under the rules. Finally, there is some sense that the

compliance person should be on athletics' side in terms of looking for ways to help teams to be competitive and not just being a watchdog.

The argument for athletics compliance's reporting *outside* of athletics is that if athletics compliance is under the control of the athletics department, then athletics is essentially monitoring itself. The athletic-compliance coordinator can be, intentionally or unintentionally, pressured to look the other way. From this perspective, an athletics director truly concerned about compliance should want the compliance function to be outside the pressure of the athletics department.

A middle ground is dual reporting, in which the athletics-compliance coordinator reports *both* inside the athletics department and outside (to the president or other senior administrator).

The risk-management approach, as observed at CSU, offers yet another alternative. At CSU, the athletics-compliance coordinator reports to the athletics director, with a dotted-line reporting relationship to the president. However, there is not a sense that athletics compliance is enclosed within athletics. Compliance risks are openly discussed with the Athletics Council and the Institutional Compliance Office. Athletics Council members serve as outside monitors on compliance activities. In this situation, it is unlikely that the compliance coordinator, although reporting inside athletics, could be pressured to ignore problems or would have no avenue to express concerns.

Recommendations for Future Research

The topics of athletics compliance and risk management in higher education are rich areas for future research and deserve scholarly attention. Athletics compliance in

particular has been virtually ignored as a research topic. This is ironic given the many athletics-compliance risks that institutions face.

The Athletics-Compliance Function

Little is known about the athletics-compliance function beyond anecdotal observations of practitioners and perhaps information sharing within conferences. Data should be collected from institutions about the (a) resources, (b) reporting relationships, (c) responsibilities, (d) qualifications, and (e) activities of athletics-compliance staffs. These data should be analyzed by division (I-A, I, II, and III).

Data on resources devoted to athletics compliance should include (a) the number of compliance staff members relative to the number of student-athletes, (b) compliance budget relative to the number of student-athletes, and (c) compliance budget as a percentage of the total athletics budget. Data on reporting relationships should include the organizational reporting structures of athletics-compliance operations as well as physical location relative to the athletics department. Data on the responsibilities of athletics-compliance staffs should include the responsibilities outside compliance (such as academic support, certification, or sport management). Data on the qualifications of athletics-compliance practitioners should include education level (such as legal degrees) and previous experience. Data on compliance activities should include the amount of time spent on various program elements (such as rules education and monitoring) and the amount of time spent with various parties (such as the athletics director and coaches).

In addition, similar data related to the roles of faculty athletics representatives and athletics academic counselors should be collected.

Athletics-Compliance Programs

Athletics-compliance program effectiveness has received little research attention. Most information about compliance-program effectiveness comes from outside reviews of individual programs (the content of which is available only to the institution). Data related to (a) views about compliance-program effectiveness, (b) compliance-program elements in use, and (c) the characteristics of effective compliance programs should be collected from institutions. These data should also be analyzed by division.

The views of presidents, athletics directors, and athletics-compliance coordinators about compliance-program effectiveness should be measured and compared. Data should be collected on their (a) views of athletics risks, (b) perceptions of preventive measures in place, and (c) satisfaction with existing compliance efforts.

Data should be collected on the extent of implementation of various compliance-program elements (such as policy manuals, rules education, and monitoring). Coaches' perceptions of compliance-program elements, as well as their observations of actual adherence (or nonadherence) to the rules, should be measured.

Athletics-compliance programs that are admired as effective should be studied in order to identify their critical features and success factors. Both qualitative studies (in the form of case studies and interviews) and quantitative studies (using numerically scored tools that list program indicators) are warranted.

Additionally, the greater use of information technology to support compliance should be studied. A huge volume of information must be collected, maintained, reviewed, summarized, and reported. Ever-changing information about rules must be digested and distributed to coaches and others. The use of software systems to facilitate

these activities should be studied. An example is web-based training. Because rules change continually and just-in-time training is useful (such as refresher training on recruiting rules just before recruiting trips), web-based training holds promise and should be explored.

The Challenge of Dependent Measures in Compliance

It is natural and logical to ask “How does risk management affect the actual number of infractions?” However, the number of infractions is inherently a problematic dependent variable. In the NCAA, infractions are primarily self-reported. Thus, a higher number of self-reported infractions may indicate an attentive, well-functioning compliance operation, whereas a lower number of self-reported infractions may indicate a lax, unaware operation. An analogy would be using the number of groundings of teenagers as a dependent measure of parental effectiveness. A higher number of groundings could indicate a troubled teen or observant, committed parents, whereas a lower number of groundings could indicate a well-behaved teen or disengaged, oblivious parents. Pickle (2003) quoted Chris Stroebel, director of enforcement at the NCAA, regarding the possible underreporting of violations in Division II:

It’s sometimes a difficult concept to convey, but it reflects positively on the institution if it self-reports any violations that it uncovers. It is important to remember that the self-reporting of violations is required by the NCAA Constitution as a key element of institutional control. . . . If an institution is doing no self-reporting at all, that might be regarded as evidence that it does not have efficient rules-compliance policies in place. (para. 12)

Better dependent measures of compliance-program effectiveness would be ratings by independent compliance reviewers on an objective lists of compliance-program indicators, such as were used by Pelliccioni (2002) in her research on healthcare compliance-program effectiveness.

Risk Management in Athletics Compliance

The present study appears to be the first in-depth case study of the use of risk management in athletics compliance. Additional case studies of the use of risk management would be valuable. Institutions both with and without institution-wide compliance would be useful as research sites. Studies of athletics programs that implement a subset of key features of risk management, such as the participation of athletics-council members in monitoring, would also be helpful. Studies that examine the viability of interinstitutional sharing of risk-related forms, templates, and other materials would be important.

Institution-Wide Compliance and Risk Management

Some colleges and universities have implemented institution-wide compliance programs (Sheldon & Hoffman, 2005; University of Washington, 2006). Data should be collected about the approaches, elements, and implementation steps of such programs.

Enterprise-wide risk management is the application of risk-mitigation approaches to all kinds of risk (strategic, financial, operational, and reputational, as well as compliance). Whitfield (2003) studied enterprise-wide risk management at five universities and several private-sector organizations and concluded that the corporate sector's enterprise-wide risk-management framework is transferable to higher education.

Higher education institutions adopting enterprise-wide risk management should be studied as cases in order to understand their approaches and elements.

Conclusion

Risk management is a widely used compliance tool outside higher education and is being increasingly used in higher education. It has not been widely used in athletics compliance.

The findings of this study indicate that risk management has a place in athletics compliance. Risk management appeared to play a beneficial role in athletics compliance at Carston State University, with no observable disadvantage other than the implementation effort involved. It seemed to be a vehicle for open discussion about how best to address the thousands of NCAA rules as well as other significant athletics risks (such as student-athlete safety). The risk-based approach in athletics compliance at CSU was characterized by (a) clear identification of top risks, (b) mitigation plans with multiple levels of control, and (c) outside review. Risk management was a means of communicating the importance and needs of compliance throughout the institution. It established compliance as a shared responsibility among the athletics staff and its athletics council, and the ultimate responsibility for compliance rested with the athletics director.

Institutions face significant athletics-compliance risks. Operating in compliance with thousands of rules is a formidable and daunting task. At their best, athletics compliance programs are well-funded, well-respected, and well-connected; at their worst, they are underfunded, easily pressured, and closed-off. Those involved in athletics compliance (and certainly all of those participating in this study) acknowledge the

challenge. However, risk management appears to be a beneficial approach for addressing the challenge and protecting institutions.

Risk management is certainly no guarantee of zero compliance problems. Nonetheless, incorporating risk management into athletics compliance offers to educational leaders a new, more rational, and empowering approach to protecting universities and student-athletes.

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APPENDICES

Appendix A: Definitions

20-hour rule. The 20-hour rule, limiting practice and competition to 20 hours per week, was passed in 1991.

Admonishment. A letter of admonishment is written to the personal responsible for a rules violation to provide written notice that his or her actions resulted in a violation; the letter usually conveys a warning or express disapproval of the individual's actions or oversight. Writing a letter of admonishment to the involved party is a common corrective action taken by institutions when self-reporting an institutional violation.

APR. The Academic Progress Rate (APR) is a real-time assessment of a team's academic performance, which awards two points each term to scholarship student-athletes who meet academic eligibility standards and who remain with the institution. A team's APR is the total points earned by the team at a given time divided by the total points possible. Teams that do not score a cut-off point of 925 are subject to contemporaneous penalties. For every student-athlete who is not eligible and does not stay in school, the team that scored below 925 will lose one scholarship (up to a maximum of 10% of the allowable number of scholarships).

Arms race. The term used to describe the continual rise of spending on athletics by schools in an effort to be competitive and obtain revenue.

Auditors. Audit, compliance, and risk management are often separate functions. Auditors identify, assess, and monitor risks. They do not manage or mitigate risks. Auditors are typically certified accountants and information technology professionals (University of Washington, 2006).

BCS. The Bowl Championship Series (BCS) is a system which selects the college football match-ups for four bowl games, called the BCS bowl games. The teams selected include the conference champion from each of the six BCS conferences plus two others (“at-large” selections). The BCS operates separately from the NCAA.

Bylaw. A bylaw is an individual rule contained within the NCAA rules manual. Each bylaw is numbered. The Division I manual contains thousands of bylaws.

Censure. An official rebuke; a public reprimand. Institutions may be censured as a result of serious (or less serious, but widespread or repeated) rules violations.

Certification. The NCAA requires that each member institution, once every 10 years, complete an institutional self-study, verified and evaluated through an external peer review. The self-study must encompass operating principles in three areas: governance and commitment to rules compliance, academic integrity, and equity and student-athlete well-being.

Compliance review. An independent assessment of the athletics compliance operation at an institution.

Community college transfer. A student-athlete who attends a two-year community college and subsequently transfers to a four-year college. This student-athlete may compete in the first year at the four-year college only if he or she meets the two-year transfers requirements.

Compliance officers. Compliance, audit, and risk management are often separate functions. Compliance officers cover the full risk cycle (identification, assessment, mitigation, and monitoring). A compliance officer’s role may be advisory or it may include decision making and enforcement. Compliance officers may address broad

institutional compliance or a more narrow compliance area. Compliance officers often have legal or auditing backgrounds (University of Washington, 2006).

Compliance program. The NCAA operating principle of rules compliance states that an institution shall demonstrate (a) direct accountability for rules compliance by the individual responsible for the athletics program; (b) regular participation of persons outside of the athletics department; (c) ongoing education on rules compliance; (d) clear and unambiguous commitment to rules compliance; and (e) at least once every four years, its rules-compliance program must be the subject of evaluation by an authority outside of the athletics department.

Compliance risk. Risk that affects compliance with laws and regulations as well as with internal policies and procedures such as safety and conflict of interest.

Compliance risk is one of five types of risk (along with strategic risk, financial risk, operational risk, and reputational risk) defined by the National Association of College and University Business Officers (NACUBO) and PricewaterhouseCoopers (Cassidy et al., 2001).

C.O.D.E. The NCAA's acronym for the four elements of an effective compliance program: (a) communication, (b) organization, (c) document, and (d) evaluation.

COIA. Coalition on Intercollegiate Athletics. COIA is a coalition of Division I-A faculty senates formed to promote academic reform in college sports.

COSO. Committee of Sponsoring Organizations. COSO's major objective is to identify the factors that cause fraudulent financial reporting and to make recommendations to reduce its incidence. COSO, initially through its Treadway Commission and on an ongoing basis, has established a common definition of internal

controls, standards, and criteria against which companies and organizations can assess their control systems. COSO is sponsored and funded by five professional accounting associations: (a) American Institute of Certified Public Accountants (AICPA), (b) American Accounting Association (AAA), (c) Financial Executives Institute (FEI), (d) The Institute of Internal Auditors (IIA) and (e) The Institute of Management Accountants (IMA).

Death penalty. The harshest penalty assigned to an institution for NCAA rules violations. The death penalty prohibits some or all outside sports competition at a school and eliminates recruiting and scholarships for a designated period.

Division I. Division I member institutions must sponsor 14 sports (seven men's and seven women's sports, or six men's and eight women's sports, with two team sports for each gender). A Division I school must meet financial aid (athletics scholarships) minimums, and there are maximum financial aid awards for each sport that a Division I school cannot exceed. These minimums and maximums are in place to level the competitive playing field.

Division I-A. Division I-A member institutions sponsor bowl-eligible football as one of their sports. Division I-A schools must sponsor 16 sports (at least six men's sports and at least eight women's sports, with two team sports for each gender). Division I-A teams must also meet minimum football attendance requirements (average 15,000 people in actual or paid attendance per home game, which must be met once in a two-year period).

Division I-AA. A Division I-AA schools are Division I schools that sponsor football, although they are not bowl-eligible and have a lower maximum number of allowed scholarships.

Division I-AAA. Division I-AAA schools are Division I schools that do not sponsor football. Basketball is typically their high-profile sport. Division I-AAA schools are often called simply “Division I.”

Eligibility. To be eligible to represent an institution in intercollegiate athletics competition, the NCAA requires that a student-athlete be enrolled in at least a minimum full-time program of studies, be in good academic standing, and maintain progress toward a baccalaureate or equivalent degree.

Enterprise-wide risk management. As discussed by the National Association of College and University Business Officers (NACUBO) and PricewaterhouseCoopers, enterprise-wide risk management encompasses all of the strategic, financial, operational, compliance, and reputational issues that an organization might encounter in its attempt to achieve its objectives (Cassidy et al., 2001). (An enterprise-wide risk management program focuses on *all* risks faced by an organization, while an institution-wide compliance program focuses on an organization’s *compliance* risks.)

Extra benefits. Any special arrangement by either an institution or its representatives to provide student-athletes or their friends or relatives with any benefits not expressly authorized by the NCAA. An extra benefit is not considered a violation if it is one that is generally available to all students or is received on a basis unrelated to athletic ability or association.

Faculty Athletics Representative. The NCAA rules require a member institution to designate an individual to serve as faculty athletics representative. This individual shall be a member of the institution's faculty or an administrator who holds faculty rank and shall not hold an administrative or coaching position in the athletics department. Duties of the faculty athletics representative shall be determined by the member institution.

Financial risk. Risk that may result in a loss of assets. Financial risk is one of five types of risk (along with strategic risk, operational risk, compliance risk, and reputational risk) defined by the National Association of College and University Business Officers (NACUBO) and PricewaterhouseCoopers (Cassidy et al., 2001).

Flutie effect. The 12% increase in applications experienced by Boston College in the year following quarterback Doug Flutie's last-second touchdown pass to beat University of Miami in 1984. The Flutie effect is one explanation for institutions' investment in college sports, i.e., the belief that athletics success increases student applications.

Impact of occurrence. The potential consequence of a risk if it were to occur. In risk assessment, risks are rated on the potential impact, either on a scale of 1-10 or as low, medium, or high.

Infraction. A rules violation.

Institutional control. It is the responsibility of each institution that is a member of the NCAA to control its athletics program. The control and responsibility for the conduct of intercollegiate athletics shall be exercised by the institution itself and by the conference(s), if any, of which it is a member. Administrative control or faculty control, or a combination of the two, shall constitute institutional control.

Institution-wide compliance program. A mechanism for management to obtain ongoing assurance regarding all compliance risks faced by an organization. (An institution-wide compliance program focuses on an organization's *compliance* risks, while an enterprise-wide risk management program focuses on *all* risks – strategic, financial, operational, compliance, and reputational – faced by an organization.)

Investigation. The process by which an alleged rules violation is confirmed or disconfirmed. The investigation can be conducted by the institution itself or by an outside entity, such as the NCAA Enforcement staff.

Knight Commission. The Knight Commission on Intercollegiate Athletics was created by the Knight Foundation in 1989 as an independent panel of leaders from education, business, and sports to study college sports.

Lake Woebegone effect. An explanation for why so many schools invest so much in college sports. They all believe that their chances of winning are “above average” and that their investment in athletics will pay off.

NCAA. The National Collegiate Athletics Association is the national governing body for intercollegiate athletics programs at the Division I, II and III levels. NCAA is sometimes used to mean (a) the entire membership of colleges and universities, (b) the headquarters staff, and (c) the committees that draft legislation or the staff that interprets the rules. A practical definition is the combination of voluntary members plus the paid headquarters staff who participate in legislation, certification, and enforcement of athletic rules and policies.

NCAA Constitution. The NCAA's constitution describes its (a) purposes and fundamental policy, (b) principles for the conduct of intercollegiate athletics, (c)

membership, (d) organization, (e) legislative authority and process, and (f) the concept of institutional control. The NCAA Constitution is the first six sections of the *NCAA Division I Manual*.

NCAA Division I Board of Directors. The Division I Board of Directors, responsible for policy and rules changes, is composed of 11 Division I-A presidents (one per conference) and seven Division I-AA or Division I-AAA presidents.

NCAA Division I Manual. The NCAA Division I manual contains the NCAA constitution, operating bylaws, and administrative bylaws. The *2005-06 NCAA Division I Manual* is 464 pages long, includes 33 sections, and contains several thousand rules.

NCAA Division I Management Council. The Division I Management Council is composed of 49 athletics administrators who vote on rules recommendations to the Division I Board of Directors.

NCAA Executive Committee. The NCAA Executive Committee, responsible for association strategy planning and oversight, is composed of the NCAA president, 12 Division I presidents, two Division II and two Division III presidents, and the chairs of the Division I, II, and III management councils.

NCAA Operating Principles. In its certification process the NCAA requires a self-study in which an institution assesses itself against operating principles and requirements in three areas: (a) Governance and Commitment to Rules Compliance (including institutional control, presidential authority, and shared responsibilities, and rules compliance); (b) Academic Integrity (including academic standards and academic support); and (c) Equity and Student-Athlete Welfare (including gender issues, minority issues, and student-athlete welfare).

NCAA Principles of Institutional Control. The NCAA's articulated principles of institutional control are: (a) formal policies and procedures, (b) monitoring and enforcement, (c) communication of procedures, (d) alterations of systems as needed, (e) swift response to violations, (f) communication of disciplinary consequences, (g) individual reporting without negative consequences, and (h) compliance education.

NCAA restructuring. The committee structure of the NCAA was reorganized in 1997 to make the members of the Executive Committee and the Division I Board of Directors primarily university presidents.

OIG. Office of Inspector General. OIG issued Compliance Program Guidance for Hospitals in 1998, based on the 1991 U.S. Sentencing Guidelines.

"One-plus-three" model. Presidential control, directed toward academic integrity, financial integrity, and independent certification. The Knight Commission proposed the "one-plus-three" model for reforming intercollegiate athletics in its 2001 report.

Operating controls. Procedures applied by operating staff during every transaction in a process to ensure compliance with rules governing the process.

Operational risk. Risk that affects an ongoing management process. Operational risk is one of five types of risk (along with strategic risk, financial risk, compliance risk, and reputational risk) defined by the National Association of College and University Business Officers (NACUBO) and PricewaterhouseCoopers (Cassidy et al., 2001).

Oversight controls. Procedures applied by senior managers (or others) on completed transactions to ensure that operating or supervisory controls have been applied.

Presidents Commission. In 1984 the NCAA established a 44-member Presidents Commission with advisory-only powers. The 1997 restructuring that put presidents on the NCAA Executive Committee and Division I Board of Directors made the Presidents Commission redundant.

Probability of occurrence. The likelihood of a risk happening. In risk assessment, risks are rated on their probability of occurrence, either on a scale of 1-5 or 1-10 or as low, medium, or high.

Probation. The conditions of probation are designed on a case-by-case basis and may include written reports, in-person reviews by the NCAA Committee on Infractions, implementation of educational or deterrent programs, and audits for specific programs or teams.

Proposition 16. The NCAA requirements, passed in 1992 and implemented in 1996, which governed initial eligibility for student-athletes at Division I schools. To qualify for full eligibility under Proposition 16, student-athletes were required to have a 2.0 grade-point average in 13 approved core courses and an SAT of 1010 or a combined ACT of 86 (or a GPA of 2.5 and SAT of 820 or ACT of 68. (Proposition 16 succeeded Proposition 48.)

Proposition 48. The NCAA requirements, passed in 1983 and implemented in 1986, that governed initial eligibility for student-athletes at Division I schools. To qualify for full eligibility under Proposition 48, student-athletes were required to have a GPA of 2.0 in 11 core courses and an SAT score of 700 or an ACT score of 15.

Reprimand. A public or private admonishment of an individual or institution.

Reputational risk. Risks that affect an organization's reputation, brand, or both. (Reputational risk may result from the failure to manage other types of risk.) Reputational risk is one of five types of risk (along with strategic risk, financial risk, operational risk, and compliance risk) defined by the National Association of College and University Business Officers (NACUBO) and PricewaterhouseCoopers (Cassidy et al., 2001).

Risk. As defined by the National Association of College and University Business Officers (NACUBO) and PricewaterhouseCoopers, a risk is any issue that impacts an organization's ability to meet its objectives. Five types of risk include strategic risk, financial risk, operational risk, compliance risk, and reputational risk (Cassidy et al., 2001). Risks are the uncertainties that may impact an institution's ability to reach its goals (University of Washington, 2006).

Risk area. A type of risk, such as extra benefits. Within the risk area of extra benefits, a specific risk would be that a student-athlete could be provided a car by a booster.

Risk assessment. The process of identifying, rating (on potential impact and probability of occurrence), prioritizing, and reporting of risk areas.

Risk assurance. The review of the risk management process by individuals and bodies outside the normal operating and management hierarchy to verify that controls are in place and functioning.

Risk management. The process of identifying specific risks in risk areas, assigning responsibility, determining risk strategies, developing risk mitigation plans (including operational procedures, training, and monitoring), implementing the plans, and the use of operating and supervisory controls as a standard part of operations.

Risk managers. Risk management, audit, and compliance are often separate functions. Risk managers cover the full risk cycle (identification, assessment, mitigation, and monitoring). Risk managers rely on data and statistical analysis to inform their mitigation plans. Risk managers often have legal or insurance backgrounds (University of Washington, 2006).

Sanction. A penalty, particularly precluding participation. A sanction may preclude an individual student-athlete from participating in competition, such as for gambling, or a sanction may preclude a team from participating in post-season competition, such as for a violation that indicates a lack of institutional control.

Sanity Code. The NCAA passed Article 3 of the NCAA Constitution, popularly known as the “Sanity Code,” in 1948. An effort at reform, the Sanity Code defined amateurism, required athletes to be held to the same academic standards as other students, required that financial aid be awarded without consideration for athletic ability, and prohibited the offering of financial aid as part of recruiting. The penalty was expulsion from the NCAA. The Sanity Code was repealed in 1951 but it led the NCAA to become an enforcement body.

Self-report. NCAA member institutions are expected to self-monitor their compliance with NCAA rules and to self-report violations.

Senior woman administrator. The athletics senior woman administrator is the most senior female administrator in an athletics department and is responsible for the welfare and equitable treatment of female student-athletes and female coaches.

Specific risk. A risk within a risk area. For example, within the risk area of extra benefits, a specific risk would be that student-athletes could practice or compete while

enrolled in less than a full-time program of study. A specific risk is specific enough that a risk management plan can be created for it.

Strategic risk. Risk that affects an organization's ability to achieve its goals, such as the risk associated with a university's expanding into a new enrollment market. Strategic risk is one of five types of risk (along with financial risk, operational risk, compliance risk, and reputational risk) defined by the National Association of College and University Business Officers (NACUBO) and PricewaterhouseCoopers (Cassidy et al., 2001).

Supervisory controls. Procedures performed by first-line managers on completed transactions to ensure that operating controls were applied.

Treadway Commission. COSO's National Commission on Fraudulent Financial Reporting (popularly named after its chairman, James C. Treadway, Jr.). The Treadway Commission produced COSO's *Internal Control - Integrated Framework* in 1992.

U.S. Sentencing Guidelines for Organizations. The Sentencing Guidelines for Organizations were issued by the U.S. Sentencing Commission in 1991 to make corporate punishment more uniform and severe and to promote voluntary compliance programs. The guidelines for effective compliance programs were: (a) standards and procedures; (b) high-level oversight; (c) careful hiring and delegation; (d) training and education; (e) monitoring, auditing, and nonretaliatory reporting; (f) response to violations; and (g) disciplinary action. The Sentencing Guidelines were revised in 2004.

Violation. A rules infraction. A secondary violation is a violation that is isolated or inadvertent, provides minimal advantage, and does not include any significant recruiting inducement or extra benefit. (Multiple or widespread secondary violations may

be considered a major violation.) All violations other than secondary violations are major violations, specifically those that provide an extensive recruiting or competitive advantage.

Appendix B: Interview Protocol
Risk Assessment in Athletics Compliance

Interview Protocol

Time of interview: _____

Date: _____

Place: _____

Informant: _____

Position of informant: _____

1. Describe the project. Tell the informant about:
 - (a) The purpose of the study.
 - (b) The individuals and sources of the data being collected.
 - (c) What will be done with the data to protect the confidentiality of the informant.
 - (d) How long the interview will take.
2. Have the informant read and sign the consent form.
3. Turn on the recorder and test it.

Appendix C: Consent Agreement

This study is being conducted by Melody Reifel Werner of Eastern Michigan University to better understand the use of risk assessment in NCAA compliance.

The research method is an interview. The interview questions ask my thoughts about risk assessment and athletics compliance at my institution. There are no right or wrong answers, only my personal views and experiences.

The interview will take approximately an hour, and the overall study will be completed in about six months. The interviews will be audio-recorded for accuracy. The recordings will be kept confidential and secure. This will be accomplished by uploading the audio recordings to a personal computer, which will be password protected. Immediately after uploading each file recording to the computer, the audio file will be erased from the recorder. All audio data will be destroyed at the completion of the oral defense of the dissertation.

I can ask questions at any time about the interview or the study in general.

If I wish to change any information after the interview has been conducted, or if I have any questions, I can contact Melody Reifel Werner at 734-487-2327 or melody.reifel@emich.edu, who is a dissertator at Eastern Michigan University. You may also contact the Chair of Melody's dissertation committee, Dr. James Berry, at 734-487-0255 or jberry@emich.edu

The results will be reported in a dissertation, and possibly in other presentations or professional publications. In any and all of these reports, the subjects and institution will remain completely anonymous.

Participation is strictly voluntary. I am free to withdraw my participation at any time.

If I have any questions I may also contact Dr. Patrick Melia and Dr. Steve Pernecky at 734-487-0379, who are Co-Chairs of the Eastern Michigan University Human Subjects Review Committee.

I have read all of the above information regarding this study. The procedures and requirements have been explained to me, and I understand them. I freely and voluntarily consent to be a participant.

For my records, I have been provided with a copy of this consent form.

Signature: _____

Print: _____

Date: _____

Appendix D: List of Documents Reviewed

The following documents were collected and analyzed as data.

State University System risk management and compliance documents

1. Intercollegiate Athletics High-Risk Compliance Group:

- a. Rules Education Monitoring Plan
- b. Infractions Monitoring Plan
- c. Departmental Management Monitoring Plan
- d. Fiscal Management Monitoring Plan
- e. Conference Operating Code Monitoring Plan
- f. Recruiting Monitoring Plan
- g. Student Eligibility Monitoring Plan
- h. Financial Aid Monitoring Plan
- i. Extra Benefits Monitoring Plan
- j. Gender Equity Monitoring Plan
- k. Student Welfare Monitoring Plan
- l. Sport Camps Monitoring Plan
- m. Facilities Safety Monitoring Plan
- n. Inclement Weather Monitoring Plan

CSU institutional risk management and compliance documents

2. CSU Institutional Compliance Program Risk Assessment Methodology
3. CSU Risk Assessment and Implementation Plan
4. Institutional Compliance Monitoring Plan
5. Risk Assessment Summaries

CSU athletics risk management documents

6. CSU Recruiting Monitoring Plan
7. CSU Quarterly Specialized Training Report
8. Intercollegiate Athletics Compliance Committee Bylaws

CSU athletics compliance documents

9. CSU Self-Reported secondary violations reports
10. CSU Student-Athlete Eligibility Forms
11. CSU Eligibility Verification Form
12. CSU Worksheet for Percent of Degree Completion
13. CSU Sample Degree Plan
14. CSU Certification Status Report
15. CSU Squad List

Oversight reports from entities outside the Athletics Department

16. Various reports from Student Eligibility Oversight Committee (with corresponding written responses from the Compliance Coordinator)
17. Various reports of outside compliance reviews conducted by CSU's Internal Audit department (and corresponding written responses from the Compliance Coordinator).

Appendix E: Risks Identified by the High-Risk Working Group

The Intercollegiate Athletics High-Risk Working Group identified 14 high-risk areas in four categories.

Fourteen high-risk areas. In the category of Institutional Control, the high-risk areas were (a) rules education and (b) infractions. In the category of Departmental Management, the high-risk areas were (c) Athletics Department certification and annual audit, (d) fiscal management, and (e) the conference's Operating Code. In the category of Student-Athlete Management, the high-risk areas were (f) recruiting, (g) student eligibility, (h) financial aid, (i) extra benefits, (j) gender equity, and (k) student welfare. In the category of Third Party Management, the high-risk areas were (l) sport camps, (m) facilities safety, and (n) inclement weather.

Seventy-four specific risks. The working group members then identified 74 specific risks within the 14 high-risk areas that they rated as high *impact* (if they occurred) and as high or medium *probability* (likelihood of occurring). The working group developed monitoring plans for these specific high risks.

Rules education. In the high-risk area of rules education, the working group identified five specific risks: (a) lack of a comprehensive rules education program, (b) rules and regulations not disseminated to the appropriate individuals; (c) failure to monitor rules education, (d) information not current, and (e) lack of effective delivery.

Infractions. In the high-risk area of infractions, the working group identified three specific risks: (a) lack of procedures to handle infractions, (b) failure to implement corrective actions for major violations, and (c) failure to implement corrective actions for secondary violations.

Certification and annual audit. In the high-risk area of Athletics Department certification and annual audit, the working group identified three specific risks: (a) the Athletic Department loses NCAA certification, (b) an annual financial audit report jeopardizes NCAA certification, and (c) a conference certification review results in a bad report.

Fiscal management. In the high-risk area of fiscal management, the working group identified five specific risks: (a) failure to monitor departmental equipment appropriately, (b) failure to perform account reconciliations, (c) failure to maintain adequate segregation of duties over financial processes, (d) exceeding budgetary limits, and (e) inappropriate purchases using a purchasing card.

Conference's operating code. In the high-risk area of the conference's operating code, the working group identified one specific risk, which was that noncompliance with conference rules can result in sanctions and penalties.

Recruiting. In the high-risk area of recruiting, the working group identified 11 specific risks: (a) failure to obtain necessary academic prerequisites, (b) official visit length too long, (c) official visits and off-campus contacts conducted during a prohibited time, (d) inappropriate lodging and transportation provided to prospect or family, (e) the prospect not notified about the five-visit limitation and about the school's graduation-rate data, (f) too many official visits for a specific sport conducted, (g) inappropriate conduct by the student-athlete host, (h) inadequate documentation kept related to off-campus visits and evaluations, (i) too many off-campus visits and evaluations, (j) recruiting activities by an ineligible coach, and (k) inappropriate contact or payment by a booster.

Student eligibility. In the high-risk area of student eligibility, the working group identified 14 specific risk areas: (a) walk-ons not having proper admission status, (b) not adhering to 5-year/10-semester rules, (c) inadequate monitoring of enrollment, (d) inadequate documentation of Student-Athlete Statements and Drug Consent Forms, (d) ineligible freshman student-athlete participating in sport practice or competition, (e) inadequate documentation of freshmen, (f) incorrect classification of freshmen (i.e., partial or nonqualifier), (g) failure to determine transfer eligibility remaining, (h) failure to meet requirement of passing 24 credit hours each year, (i) inappropriate number of hours earned during the summer, (j) inadequate GPA, (k) inappropriate courses taken, (l) failure to achieve degree plan percentage goals, and (m) failure to choose degree program or declare a major.

Financial aid. In the high-risk area of financial aid, the working group identified one specific risk, which was the over-awarding above team and individual maximums.

Extra benefits. In the high-risk area of extra benefits, the working group identified five specific risks: (a) complimentary admission tickets; (b) awards exceeding limits; (c) automobile or the use of an automobile; (d) per diems and or reimbursements for other expenses, including academic support, medical, housing, meals, travel, practice, and competition, that exceed limits; and (e) a representative of athletic interests could provide extra benefits.

Gender equity. In the high-risk area of gender equity, the working group identified four specific risks: (a) the gender equity plan does not comply with NCAA rules; (b) gender bias in athletic scholarships and opportunities; (c) gender bias in programs, services, and support for student-athletes; and (d) gender bias exists.

Student welfare. In the high-risk area of student welfare, the high-risk working group identified eight specific risks: (a) inappropriate means of team travel (such as 15-person vans), (b) inappropriate drivers of vehicles, (c) violations related to gambling, (d) failure to have drug testing consent forms on file, (e) failure to know or act appropriately about a student-athlete's medical history, (f) lack of a certified Life Skills Program, (g) lack of an established grievance policy and process for discipline or financial-aid setbacks, and (h) lack of a student-athlete advisory committee.

Sports camps. In the high-risk area of sports camps, the working group identified eight specific risks: (a) lack of proper fiscal-management documentation, (b) no account reconciliation, (c) camp conducted during a prohibited time period, (d) free or reduced admissions, (e) selective invitees, (f) ineligible participation, (g) improper employment of camp employees, and (h) inadequate health and safety procedures for the participants.

Facilities safety. In the high-risk area of facilities safety, the working group identified four specific risks: (a) inadequate safety inspections, (b) antiquated facilities, (c) improper maintenance, and (d) inadequate emergency plans.

Inclement weather. In the high-risk area of inclement weather, the working group identified two specific risks: (a) lack of written lightning and inclement-weather safety procedures, and (b) lack of plan or cost analysis on file for replacement or repairs to athletics facilities or equipment damaged by inclement weather.

Appendix F: Sample Monitoring Plan For One Specific Risk

Category/High-risk Area: Student-athlete Management / Student Eligibility

Responsible Party: Director of Athletics

Source: NCAA Bylaw 14

Risk: Failure to monitor student-athlete eligibility status could result in an Athletics Department playing ineligible student-athlete in practice or competitive events resulting in violations of Bylaw 14.

Specific Risk	Operating Control	Evidence of Control	Supervisory Control	Evidence of Control	Oversight Controls	Evidence of Control
Inadequate documentation (yearly Student-Athlete Statement and Drug Consent Form).	Initial team meeting to complete all required NCAA forms.	Signed and dated NCAA forms.	Director of Compliance reviews 100% of the signed NCAA forms and matches to team roster to ensure completion by all student-athletes.	Eligibility Grid and Squad List.	Select sample of student-athletes from squad list and verify that NCAA forms are completed.	Memorandum is sent to the Athletics Director, Athletic Compliance Office, and the Institutional Compliance Office detailing results of the oversight controls on a quarterly basis.

Appendix G: Potential High-Risk Areas In Athletics

Carston State University initially identified the following as potential high-risk areas for Intercollegiate Athletics.

- Student-Athlete Health Care Policies and Procedures
- Intercollegiate Athletics Travel Policies and Procedures
- NCAA Compliance and Rules Education
- Student Financial Aid and Academic Regulations and Procedures
- Conference Operating Code
- Athletic Department Certification and Annual Audit
- Employment Contracts and Conduct of Employees
- Department Policies & Procedures Manual
- Crisis Management
- Student-Athlete Recruiting Regulations
- Student-Athlete Eligibility
- Student-Athlete Financial Aid
- Student-Athlete Extra Benefits
- Gender Equity
- Student-Athlete Welfare
- Institutional Control
- Rules Education
- Infractions – Reporting-Corrective Actions
- Summer Camps Policies and Procedures
- Facilities Safety
- Inclement Weather
- Travel Advances/Reimbursement Procedures
- Drug Testing and Education Program
- Employment Contracts per the State System’s Policies and Procedures

FOOTNOTES

¹ For purposes of confidentiality, Carston State University (CSU), State University System, and Mid-Central Conference are pseudonyms.

² The Presidents Commission, with advisory-only powers, was created in 1984. Following a major restructuring in 1997, the top two NCAA committees, the Executive Committee and the Division I Board of Directors, were composed primarily of university presidents.

³ The State University System, Carston State University, and Mid-Central Conference are pseudonyms for purposes of confidentiality.

⁴ The names Carston State University, State University System, and Mid-Central Conference are pseudonyms.

⁵ All informants' names are pseudonyms.

⁶ The Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) addresses the use and disclosure of individuals' health information.

⁷ The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of students' education records.

⁸ The Graham-Leach-Bliley Act of 1999 has privacy provisions related to consumers' financial information.

⁹ The NCAA defines the institution's chief executive officer as responsible for institutional control. However, both the High-Risk Working Group and CSU identified the athletics director as responsible at the operational level for athletics compliance.

¹⁰ See the section entitled “The NCAA’s Approach to Compliance” in Chapter 2 for the listing of the NCAA’s Principles of Institutional Control.

¹¹ State University System, Carston State University (CSU), and Mid-Central Conference are pseudonyms.

¹² Athletics compliance committees may go by different names at different institutions. At CSU, the name Athletics Council was used.