

**NCAA DIVISION III ATHLETIC DIRECTORS:**  
*An Analysis of the Responsibilities, Qualifications, and  
Characteristics*

**Glenn M. Wong\* & Joseph R. Pace†**

**I. INTRODUCTION**

The role of college athletics across institutions in the United States varies significantly. At the highest level of competition and media coverage, Division I athletics take the limelight. With millions of viewers watching the BCS Football Championship and postseason bowl games<sup>1</sup> and the men's basketball's "March Madness" postseason

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\* Professor, Mark H. McCormack Sport Management Department, Isenberg School of Management, University of Massachusetts, Amherst, MA; J.D., Boston College Law School; B.A. Brandeis University. Professor Wong is the author of *ESSENTIALS OF SPORTS LAW* (4th ed. 2010) and *THE COMPREHENSIVE GUIDE TO CAREERS IN SPORTS* (2d ed. 2012). This article builds on three articles we have previously written: Glenn Wong & Chris Deubert, *Major League Baseball General Managers: An Analysis of the Responsibilities, Qualifications and Characteristics*, 18 NINE: J. OF BASEBALL HIST. & CULTURE 74 (2010); Glenn Wong & Chris Deubert, *National Basketball Association General Managers: An Analysis of the Responsibilities, Qualifications and Characteristics*, 18 VILL. SPORTS & ENT. L.J. 213 (2011); and Chris Deubert, Glenn M. Wong & Daniel Hatman, *National Football League General Managers: An Analysis of the Responsibilities, Qualifications and Characteristics*, 20 VILL. SPORTS & ENT. L.J. 427 (2013). The authors would like to thank Betsy Alden, President of Alden and Associates, Inc.; Alex Lamphier, B.S., University of Massachusetts, Amherst, MA; and Ben Pasco-Anderson, B.S. University of Massachusetts, Amherst, MA.

† Isenberg School of Management, University of Massachusetts, Amherst, MA; M.B.A., Isenberg School of Management, University of Massachusetts; B.A. Bowdoin College.

1. See *Bowl Championship Series FAQ*, BCSFOOTBALL.ORG (Oct. 1, 2013, 6:46 PM), <http://www.bcsfootball.org/news/story?id=4809793>.

tournament,<sup>2</sup> the landscape of big-time college athletic programs has more dollars at stake than ever before. Institutional leadership at nationally prominent athletic powerhouses increasingly seeks out experienced businesspeople to serve as athletic directors — the leaders of college athletic departments — and manage the complex commercial aspects of running a college sports program.<sup>3</sup> Although large programs receive the vast majority of media coverage, thousands of student-athletes dedicate significant time and effort to their respective sports to compete at far less publicly followed levels of NCAA competition. The role college athletics plays in the college experience is distinct at the various divisions of intercollegiate competition, and expectations of athletic directors vary accordingly.

The athletic director plays an extremely important role in college athletics. Although jobs vary, all collegiate athletic directors are concerned with providing an exceptional experience for student-athletes, developing successful teams across the athletic department, and

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2. Andy Fixmer, *CBS Says 'March Madness' Final Drew 23.4 Million Viewers*, BLOOMBERG (Apr. 9, 2013, 11:19 AM), <http://www.bloomberg.com/news/2013-04-09/cbs-says-march-madness-final-drew-23-4-million-viewers.html> (in 2013, CBSSports reported 23.4 million viewers for the Men's Basketball championship, capping a 19-year high of average March Madness viewership); Andrew Giangola, *BCS Era Ends on a High Note*, IMG College, Jan. 9, 2014, <http://www.imgcollege.com/news/2014/bcs-era-ends-on-a-high-note> (the BCS finale — ranking as the third-most viewed cable television program of all time — averaged 25.6 million viewers and a 14.4 U.S. household fast national rating, according to Nielsen).

3. See, e.g., *University Vice President/Director of Athletics*, NOTRE DAME FIGHTING IRISH ATHLETICS, [http://www.und.com/genrel/swarbrick\\_jack00.html](http://www.und.com/genrel/swarbrick_jack00.html) (last visited Feb. 12, 2015) (University of Notre Dame Athletic Director Jack Swarbrick was previously a partner at Indianapolis law firm Baker & Daniels, a member of the Indiana Sports Corporation, and general counsel for numerous national governing bodies of Olympic sports).

maintaining a positive workplace for all employees within the athletic department. A closer look at the mission of different divisions among the National Collegiate Athletic Association (NCAA) competition<sup>4</sup> reveals the duties and responsibilities of athletic directors vary significantly. For example, Division III athletic directors are highly concerned with orchestrating a uniquely balanced college experience for student-athletes and development efforts, while the focus of Division I athletic directors ranges from student-athlete experiences to more objective performance indicators, such as revenue.

### A. Purpose of Article

The purpose of this paper is to explore the role and profile of current Division III athletic directors and to provide context and comparison. Job responsibilities of athletic directors at the Division III level will be compared to their Division I counterparts using a complementary article: *NCAA Division I Athletic Directors: An Analysis of the Responsibilities, Qualifications, and Characteristics*.<sup>5</sup> The complementary article focused on Division I athletic directors, while the scope of this article is to offer the same depth of research with respect to Division III athletic directors. This paper aims to provide a foundational understanding of Division III athletic competition to develop a thorough understanding of the expectations of athletic directors at this level. In addition to exploring the Division III philosophy and the job responsibilities of athletic directors, this paper also discusses the various legal issues faced by Division III athletic departments, by presenting

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4. *Who We Are*, NCAA, <http://www.ncaa.org/about/who-we-are> (last visited Feb. 17, 2015).

5. Glenn M. Wong & Christopher R. Deubert, *NCAA Division I Athletic Directors: An Analysis of the Responsibilities, Qualifications and Characteristics*, 22 JEFFREY S. MOORAD SPORTS L.J. (forthcoming Spring 2015).

specific examples of how the results of past litigation may impact the ongoing decisions of athletic directors within the framework of their job responsibilities.

## II. THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

Before discussing individual athletic departments and, more specifically, the roles of athletic directors, it is important to first understand the unique environment in which athletic departments operate. The NCAA consists of roughly 1,300 member institutions<sup>6</sup> and is designed to oversee intercollegiate athletic competition across the United States.<sup>7</sup> Founded in 1906, the NCAA now has more than 470,000 student-athletes participating across 23 sports.<sup>8</sup> According to the NCAA Manual, the NCAA's purpose is "to maintain intercollegiate athletics as an integral part of the educational program and the athlete as an integral part of the student body and, by so doing, retain a clear line of demarcation between intercollegiate athletics and professional sports."<sup>9</sup> The NCAA divides its membership into three divisions: Division I, Division II, and Division III. Division III is further divided based on certain criteria.

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6. *2008-09 NCAA Membership Report*, NCAA.ORG 5 (Jan. 2009), <http://www.ncaapublications.com/productdownloads/MR0809.pdf>.

7. STUDENT-ATHLETE PARTICIPATION: 1981-82—2013-14 NCAA SPORTS SPONSORSHIP AND PARTICIPATION REPORT, NCAA, 8-11 (2014) [hereinafter NCAA PARTICIPATION REPORT], *available at* <http://www.ncaapublications.com/productdownloads/PR1314.pdf>.

8. *Id.*

9. NAT'L COLLEGIATE ATHLETIC ASS'N, 2011-2012 NCAA DIVISION I MANUAL § 1.3.1 (2014) [hereinafter NCAA DI MANUAL] *available at* <https://www.ncaapublications.com/p-4224-2011-2012-ncaa-division-i-manual.aspx>.



### A. Division III Athletics

Division III athletics are rooted in tradition and pioneering efforts within the realm of collegiate athletics. From a historical perspective, Amherst and Williams College, two prominent and athletically successful Division III institutions, competed in the first intercollegiate baseball game in 1859. Baseball was the second sport to hold intercollegiate competition.<sup>10</sup> The history of Division III athletics is a relatively short one, as the competitive distinction did not become official until 1973.<sup>11</sup> However, institutional resistance to “big-time” athletics began long before Division III, as particular schools deemphasized the importance of the growing trend of seeking national athletic prominence. For example, in 1946 the University of Chicago decided to leave the Big-10 Conference amid growing professionalism and commercialization of football.<sup>12</sup> Collective Division III ideals were first formalized with 10 small New England colleges. These schools created the New England Small College Athletic Conference (NESCAC) in 1971 and enacted self-policing measures to ensure an academic focus.<sup>13</sup> With early policies such as no postseason competition and no financial aid based on the merit of athletics, the NESCAC enforced its unique academic focus to the extent of expelling an original member-institution, Union College, after determining that the College planned

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10. PRINCIPLES AND PRACTICE OF SPORT MANAGEMENT 164 (Lisa Pike Masteralexis, Carol A. Barr & Mary Hums eds., 4th ed. 2011).

11. *DIII 40th Anniversary*, NCAA, <http://www.ncaa.org/diii-40th-anniversary> (last visited Feb. 17, 2015).

12. JAMES J. DUDERSTADT, *INTERCOLLEGIATE ATHLETICS AND THE AMERICAN UNIVERSITY: A UNIVERSITY PRESIDENT'S PERSPECTIVE*, 72 (2003).

13. JAMES L. SHULMAN & WILLIAM G. BOWEN, *THE GAME OF LIFE: COLLEGE SPORTS AND EDUCATIONAL VALUES* 17 (2002).

more intense athletic pursuits than the rest of the conference.<sup>14</sup>

Although Division III athletic competition does not garner the same game attendance or national television broadcast coverage as seen at the Division I level, Division III athletics are widespread and involve the efforts of many people and student-athletes. Division III includes more than 180,000 student-athletes from 448 institutions under the jurisdiction of 43 distinct conferences, making it the largest NCAA division in terms of both participation and number of schools, with 148 more institutions than Division I.<sup>15</sup> To put these figures in perspective, 39 percent of all NCAA student-athletes participate at the Division III level, while 37 percent participate at the Division I level. Division III is organized similarly to Division I: Member institutions compete within conferences comprised of individual teams striving for conference championships and national championships sponsored by the NCAA.<sup>16</sup> A growing distinction between Division I and Division III conferences is that the geographic area composing Division III conferences is generally more compact than Division I conferences, and travel necessities are managed on a smaller scale, with buses and vans rather than air travel.<sup>17</sup>

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14. *Id.*

15. Jack Copeland, *Celebration of 40th Anniversary Highlights Division III Week*, (April 7, 2014, 2:19 PM) <http://www.ncaa.org/about/resources/media-center/news/celebration-40th-anniversary-highlights-division-iii-week>; *NCAA Division III*, NCAA, <http://www.ncaa.org/about?division=d3> (last visited Feb. 17, 2015).

16. NCAA PARTICIPATION REPORT, *supra* note 7, at 75-76

17. See, e.g., *State University of New York Athletic Conference*, SUNYAC, <http://www.sunyac.com> (last visited Feb. 17, 2015); *University Athletic Association*, UAA, [http://www.uaa.rochester.edu/Association\\_Links/About\\_the\\_UAA.htm](http://www.uaa.rochester.edu/Association_Links/About_the_UAA.htm) (last visited Feb. 17, 2015); *Become a Division III Student-Athlete*,

Division III states a ubiquitous mission: participating schools will provide student-athletes with a rounded college experience in addition to their athletic endeavors. Supporting the concept of the student-athlete experience mission, the first sentence of the Division III Philosophy Statement is as follows:

Colleges and universities in Division III place highest priority on the overall quality of the educational experience and on the successful completion of all students' academic programs.<sup>18</sup>

Division III member institution athletic departments generally put more emphasis on the combined academics-athletics experience and high academic achievement by implementing policies such as shorter practices and playing seasons, regional competition and travel, and full integration into the campus community to maintain student primacy.<sup>19</sup> This academic focus is also carried into financial aid considerations. In stark contrast to scholarship-laden Division I athletic programs,<sup>20</sup> Division III athletic departments do not have the ability to offer athletics-based scholarships,<sup>21</sup> which conveys the academic-focus to prospective students and their parents from the onset. With financial and marketing constraints on drawing top-tier athletic talent, the primary emphasis is placed on regional

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NCAA, <http://www.ncaa.org/student-athletes/become-division-iii-student-athlete> (last visited Feb. 17, 2015).

18. *Division III Philosophy Statement*, NCAA, <http://www.ncaa.org/governance/division-iii-philosophy-statement> (last visited Feb. 7, 2015); NCAA DIII MANUAL, *supra* note 16, at § xiv.

19. *NCAA Division III*, *supra* note 15.

20. NAT'L COLLEGIATE ATHLETIC ASS'N: 2004-2013 NCAA DIVISION I REVENUES AND EXPENSES REPORT § Table 3.9 (2014) [hereinafter NCAA DI REVENUES AND EXPENSES REPORT] *available at* <http://www.ncaapublications.com/productdownloads/2012RevExp.pdf>.

21. *Division III Philosophy Statement*, *supra* note 18.

in-season and conference competition rather than broader goals of national championships.<sup>22</sup> Additionally, the elimination of athletics scholarships creates a unique relationship between Division III student-athletes and head coaches when compared to the same dynamic at the Division I level. Rather than having more utilitarian experiences where student-athletes and coaches may experience subordinate-superior relationships, Division III student-athletes and their coaches may develop more equitable relationships.<sup>23</sup>

Median Division I Fiscal Year 2012 Grant-In-Aid Expenses by Subdivision (\$MM)<sup>24</sup>

	Public	Private	Overall
Division I FBS Institutions	7.4	13.6	8.2
Percent of Total Ath. Dept. Expenses	14%	21%	15%
Division I FCS Institutions	3.8	5.1	4.0
Percent of Total Ath. Dept. Expenses	27%	25%	26%
Division I Institutions without Football	2.8	4.9	3.8
Percent of Total Ath. Dept. Expenses	24%	33%	29%

Conference and individual athletic department mission statements echo the Division III mission statement. The NESCAC mission statement is a strong example of forming a conference in a manner that regulates athletic competition to best supplement academic pursuits:

The primary mission of the Conference is to organize, facilitate, support, and regulate

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22. *Principles and Practice of Sport Management*, *supra* note 10, at 172.

23. Rebecca A. Zakrajsek, Christiaan G. Abildso, Jennifer R. Hurst, & Jack C. Watson II, *The Relationships Among Coaches' and Athletes' Perceptions of Coaching Staff Cohesion, Team Cohesion, and Performance*, 9 ONLINE J. SPORTS PSYCHOL., 11 (Sept. 2007), <http://www.athleticinsight.com/Vol9Iss3/CoachingStaffCohesionPDF.pdf>.

24. NCAA DI REVENUES AND EXPENSES REPORT, *supra* note 20, at § Table 3.9.

intercollegiate athletic competition among member institutions in a manner consistent with our commitment to academic excellence and our core values.<sup>25</sup>

Wesleyan University, a member institution of the NESCAC, exemplifies the ideals of Division III and the NESCAC in the following excerpt from its athletic department mission statement:

Athletics, as an integral part of the overall educational process, is uniquely positioned to enhance a liberal arts education. Wesleyan coaches share the same goal as the entire Wesleyan community: to transform the lives of our students.<sup>26</sup>

On average, individual Division III and Division I institutions are very similar in terms of total sports sponsored and the number of student-athletes participating in intercollegiate athletics. Division III and Division I institutions on average sponsor 18 total sports, while the average student-athlete population is roughly 550 per school in Division III and 775 per school in Division I.<sup>27</sup> However, participation rates, or the percentage of student-athletes within the total undergraduate student body, at Division III schools are far higher than their Division I counterparts. In

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25. *New England Small College Athletic Conference Mission Statement*, NESCAC.COM, [http://www.nescac.com/about/mission\\_statement](http://www.nescac.com/about/mission_statement) (last visited Feb. 17, 2015); see also *University Athletic Association*, UAA, [http://www.uaa.rochester.edu/Association\\_Links/About\\_the\\_UAA.htm](http://www.uaa.rochester.edu/Association_Links/About_the_UAA.htm) (last visited Feb. 17, 2015).

26. *Mission Statement*, WESLEYAN UNIV., <http://www.wesleyan.edu/athletics/deptinfo/index.html> (last visited Feb. 12, 2015).

27. *NCAA Recruiting Facts*, NCAA (Aug. 2015), <http://www.ncaa.org/sites/default/files/Recruiting%20Fact%20Sheet%20WEB.pdf>.

terms of average participation rates, Division III institution student-athletes represent, on average, roughly 21 percent of their respective student bodies.<sup>28</sup> At Division I institutions, the average participation rate is far lower, at approximately 6 percent.<sup>29</sup> In comparison to Division I campuses, Division III institutions tend to have smaller overall student bodies, as the average overall student body of Division III schools is roughly 2,600. In contrast, the average undergraduate enrollment at Division I schools is about 13,000.<sup>30</sup>

Student-Athlete Participation and Student Enrollment Across NCAA Divisions<sup>31</sup>

	Division I	Division II	Division III
Colleges and Universities	346	300	450
Student-Athletes	173,500	109,100	183,500
Average Enrollment	12,900	4,200	2,600
Average Number of Sports	18	15	18
Average Percent of Student Body Participating in Sports	6%	14%	21%
Average Number of Student-Athletes	774	588	546

Academics are at the core of the Division III approach to implementing policies on intercollegiate competition, and the topic of academics will be discussed in greater detail throughout the paper. However, to build a clearer picture of the structure of Division III institutions, it may be helpful to provide an overview of the academic reputations across member schools. From a selectivity standpoint, 54 percent of Division III schools admit 70 percent or more of their applicants, while only 12 percent of Division III schools admit less than 50 percent of

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28. *Division III Facts and Figures*, NCAA, [http://www.ncaa.org/sites/default/files/Facts%20and%20Figures%202014\\_FINAL\\_.pdf](http://www.ncaa.org/sites/default/files/Facts%20and%20Figures%202014_FINAL_.pdf) (last visited Apr. 15, 2015).

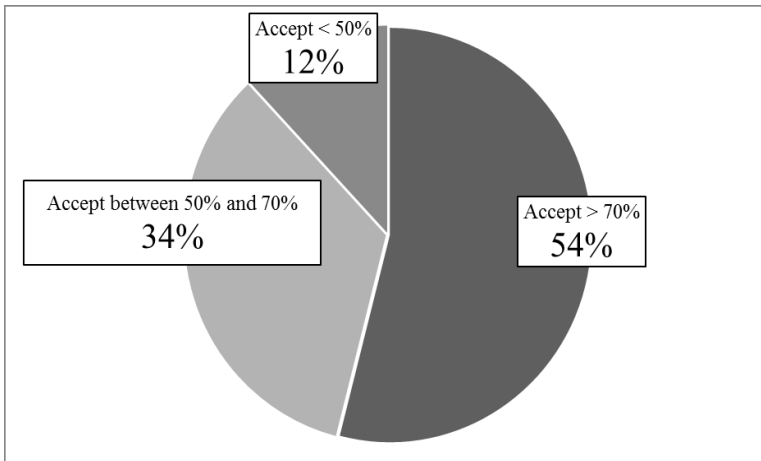
29. *NCAA Recruiting Facts*, *supra* note 27.

30. *Id.*

31. *Id.*

applicants.<sup>32</sup> There is a wide range of selectivity across institutions at all levels of athletic competition, yet many highly selective schools are Division III schools. In *U.S. News & World Report's* 2014 National Liberal Arts College Rankings, Division III institutions took 22 positions within the top 25.<sup>33</sup>

NCAA Division III Institutional Distribution by Admissions Selectivity<sup>34</sup>



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32. *National Liberal Arts College Rankings*, U.S. NEWS, <http://colleges.usnews.rankingsandreviews.com/best-colleges/rankings/national-liberal-arts-colleges> (last visited Feb. 17, 2015).

33. *Id.*

34. Richard A. Rasmussen, *NCAA Division III Profile of Institutions and Conferences*, 7, [http://www.uaa.rochester.edu/administrative/Form\\_and\\_Document\\_Library/Division\\_III\\_Profile.pdf](http://www.uaa.rochester.edu/administrative/Form_and_Document_Library/Division_III_Profile.pdf) (last visited Feb. 17, 2015).

### **III.THE DUTIES OF A DIVISION III ATHLETIC DIRECTOR AND LEGAL ISSUES ACROSS DIVISION III ATHLETICS**

When considering the role of Division III athletic directors, it is important to identify their overall goal. In general, revenue considerations are significant at the Division III level, yet these considerations are not a primary concern as in Division I athletic departments. Major television networks do not broadcast the vast majority of Division III sporting events, event admission is generally free or inexpensive, and members of on-campus teams operate concession stands as fundraisers. When compared to high-profile Division I events distributed by mass media, which are expected to generate significant working capital for the participating universities on the whole, the Division III mindset may seem enigmatic and somewhat unique to the average college athletics fan. With revenue as a marginalized indicator of athletic department performance, athletic directors measure success in accordance with the mission of Division III athletics. They focus on providing a unique experience for student-athletes both on and off the field, particularly vis-à-vis competitor Division III programs. However, with limited annual revenue and fixed levels of funding, athletic directors often find themselves wearing many hats in their athletic departments. They act as managers of the athletic department and coaches, financial managers of the budget, media relations representatives, fundraising representatives, compliance officers, and dedicated sports fans. More specifically, when looking at



first-quarter 2014 job descriptions for Division III athletic directors,<sup>35</sup> the roles break down into the following areas:

- **Leadership:**<sup>36</sup> overall leadership of the athletic department consistent with College, Conference and NCAA Division III mission;
- **Vision and Philosophy:** developing goals and policies consistent with athletic department mission and managing the department to achieve these goals and enforce policies;
- **Employment:** hiring, training, supervising and evaluating all athletic department staff;
- **Cross-Functional Work:** promoting and maintaining cooperative relationships with the deans, department chairs, and area supervisors in areas such as admissions, student life, and wellness;
- **Financials:** managing athletic department fiscal resources and budgeting;

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35. *Current Searches*, ALDEN & ASSOC'S, <http://www.aldenandassoc.com/executive-search/current-searches.html> (last visited Feb. 18, 2015).

36. *NACWAA Leadership Minute: Erin McDermott*, YOUTUBE (Feb. 24, 2014), <https://www.youtube.com/watch?v=bs6rbvVELEo> (Recent University of Chicago Athletic Director hire Erin McDermott said of the transition from DI Senior Associate to DIII AD, "In many ways it's a similar kind of role. Operationally, the kinds of things I'm dealing with every day, the internal piece of it all, even the campus connections for the department are similar to the role I had, especially as Deputy Director and Senior Associate. The difference, which I think would be true in any case of that type of a jump, is just really being the Athletic Director that's making the final decision, needing to really provide the vision, the leadership, which are the reasons why I felt I wanted to be in that role.").

- **Compliance:** acting as primary administrator of compliance to conference and NCAA rules, planning and implementing rules education programs for athletic staff and student-athletes, and holding responsibility for all compliance reporting;
- **Title IX:** ensuring compliance with Title IX regulations in all aspects of the intercollegiate program;
- **Marketing and Public Relations:** promoting and marketing athletic programs in the college and region, while representing the college in public relations and media outlets;
- **Alumni and Fundraising:** working with booster clubs and other alumni groups to reinforce community around the athletic department and develop fundraising levels;
- **Staff Work:** working on a day-to-day basis with head coaches on scheduling, recruiting, NCAA compliance, game management, equipment management, and financing;
- **Community Sponsorship:** developing and maintaining sponsorship opportunities with local and regional businesses;
- **Outreach:** providing a vision for charitable support made by the athletics department;
- **Miscellaneous:** overseeing all on-campus athletics-related events, including summer camps.

As shown above, because the needs of every athletic department differ and because athletic directors must set their priorities accordingly, the day-to-day workload for a Division III athletic director can take many forms.

## A. Personnel Responsibilities

The job of a Division III athletic director is almost entirely based on interpersonal relationships. In some ways, athletic directors are at the center of the campus community because they must maintain quality working relationships with their superiors — the deans and president of the college — as well as their colleagues within the athletic department.<sup>37</sup> These relationships build the foundation for offering opportunities to stakeholders on campus (e.g., student-athletes) and off campus (e.g., alumni and prospective student-athletes and their families). Although athletic directors must maintain many relationships, the most important relationships they maintain are with coaches. Division III athletic directors' core function lies in managing, hiring, evaluating, terminating, mentoring, and advising coaches.

### 1. Coaching Staffs

Division III athletic departments are organized with athletic directors as the superior to both head and assistant coaches of all sports. Head coaches report directly to the athletic director, while assistant coaches report directly to the respective head coach. This system differs vastly from large Division I athletic departments where a small number of head coaches, generally in high-profile sports, will report to the athletic director, while others will report to one of several associate athletic directors. The distinctions between these systems serves as an example of how Division III athletic directors will spend a high proportion of their time serving the needs of their coaches, while Division I athletic

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37. *Id.* (McDermott said her biggest success in her first 100 days as Chicago AD was “the relationships [she was] able to cultivate”).

directors focus more time on operational and financial responsibilities.<sup>38</sup>

Successful Division III athletic programs begin with high-quality, dynamic coaching staffs who carry significant experience in their particular sport, a passion for sports in general, and an ability to recruit and attract prospective student-athlete talent. Division III athletic directors are faced with a three-fold challenge in regards to managing coaches. These challenges include: (1) hiring skilled coaches for vacant positions, (2) managing the existing coaching staff and promoting professional development within their roles, and (3) supporting coaches within various constituencies across the campus. At the typical Division III institution, an athletic director will expect to manage 18 distinct sports with perhaps slightly fewer coaches due to the fact head coaching crossover will occur where there could be one coach for both men's and women's track and field and cross-country, and a single head coach for the swimming, diving, and water polo teams.<sup>39</sup> However, at many prominent Division III institutions, the number of sports and coaches can reach levels well above the norm. For example, Julie Soriero, the athletic director at Massachusetts Institute of Technology, manages the most comprehensive sports program in all of Division III, with 33 sponsored varsity-level sports and 25

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38. Brent Schrottenboer, *Downsizing: Some College Execs Prefer Division III*, USA TODAY, <http://usatoday30.usatoday.com/sports/college/story/2012/09/24/some-division-i-college-administrators-pull-out-of-the-big-time-for-a-happier-life/57838352/1> (last updated Sept. 24, 2012, 7:34 PM).

39. See, e.g., *Inside Athletics*, POMONA-PITZER ATHLETICS, <http://www.pe.pomona.edu/information/directory/index> (last visited Feb. 13, 2015) (assigning multiple cross-overhead coaches, including Jean-Paul Gowdy for Men's and Women's Swimming, Kirk Reynolds for Women's Cross Country and Track and Field, Tony Boston for Men's Cross Country and Track and Field, and Alex Rodriguez for Men's and Women's Water Polo).

distinct head coaches.<sup>40</sup> In addition to the management of head coaches, athletic directors' personnel responsibilities also extend to all levels of assistant coaches, including full-time, part-time, graduate, and volunteer, and their interactions with student-athletes.<sup>41</sup>

In a form of professional development for head coaches, athletic directors hold the primary responsibility of conducting head coach performance reviews and evaluations following each academic year.<sup>42</sup> In this function, athletic directors have the opportunity to serve as mentors to their head coaches and provide guidance related to careers, personal growth, and other professional issues. Part of the mentoring process that athletic directors provide head coaches includes giving clear instruction on how to evaluate their assistant coaches and reviewing their performance assessments.<sup>43</sup>

Head coaches handle the majority of the hiring of assistant coaches, but athletic directors will often have sign-off authorization or final approval in this process.<sup>44</sup> Many athletic directors will determine the level at which assistant coaches are hired (full-time or part-time) and often develop

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40. See *DAPER 2013-14 Quick Facts*, MIT ATHLETICS, [http://mitathletics.com/genrel/DAPERQuickFacts\\_FY14.pdf](http://mitathletics.com/genrel/DAPERQuickFacts_FY14.pdf) (last visited Feb. 13, 2015); see also *Julie Soriero*, MIT ATHLETICS, [http://www.mitathletics.com/information/directory/soriero\\_julie00.html](http://www.mitathletics.com/information/directory/soriero_julie00.html) (last visited Apr. 15, 2015).

41. *Springfield College Executive Search Profile: Director of Athletics*, ALDEN & ASSOC'S, 11, [http://www.aldenandassoc.com/images/pdf/springfield\\_college\\_director\\_of\\_athletics\\_executive\\_search\\_profile.pdf](http://www.aldenandassoc.com/images/pdf/springfield_college_director_of_athletics_executive_search_profile.pdf) (last visited Apr. 15, 2015).

42. *Id.*

43. *Id.*

44. *Emerson College Executive Search Profile*, ALDEN & ASSOC'S, [http://www.aldenandassoc.com/images/pdf/emerson\\_college\\_director\\_of\\_athletics\\_and\\_recreation\\_executive\\_search\\_profile.pdf](http://www.aldenandassoc.com/images/pdf/emerson_college_director_of_athletics_and_recreation_executive_search_profile.pdf) (last visited Feb. 18, 2015).

creative employment statuses in the form of graduate, volunteer, and part-time assistantships.<sup>45</sup> This methodology allows the department to maintain a cost-effective position in terms of assistant coach employment while also attracting talented candidates. For example, the vast majority of Smith College (Massachusetts) assistant coaches are graduate assistants and coach for course credit toward a graduate degree in Exercise and Sports Studies offered at the school.<sup>46</sup>

Division III athletic directors must also manage relationships with deans, department chairs, and area supervisors responsible for the academic and non-academic assignments of coaches.<sup>47</sup> With coaches taking on roles beyond their coaching responsibilities — such as teaching physical education or other academic classes, leading extracurricular student groups, and working as liaisons in various departments across campus — the athletic director

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45. See, e.g., *Staff Directory*, AUGSBURG COLL., <http://athletics.augsburg.edu/staff.aspx?tab=staffdirectory> (last visited Feb. 13, 2015); *Staff Directory*, CHICO STATE, <http://www.chicowildcats.com/staff.aspx> (last visited Feb. 13, 2015); *Athletics Staff*, OREGON TECH., <http://www.oit.edu/athletics/inside-athletics/staff> (last visited Feb. 13, 2015); *Staff Directory*, RAMAPO COLL. ROADRUNNERS, <http://www.ramapoathletics.com/staff.aspx> (last visited Feb. 13, 2015); *Rollins Staff Directory*, ROLLINS COLL., <http://www.rollinssports.com/StaffDirectory.dbml> (last visited Feb. 13, 2015); *Staff Directory*, THE SUNY CORTLAND RED DRAGONS, <http://www.cortlandreddragons.com/staff.aspx?tab=staffdirector> (last visited Feb. 13, 2015); *Staff Directory*, UNIV. OF MOUNT UNION PURPLE RAIDERS, <http://athletics.mountunion.edu/information/directory/index> (last visited Feb. 13, 2015).; *Staff Directory*, WHEATON ATHLETICS, <http://athletics.wheaton.edu/staff.aspx?tab=staffdirectory> (last visited Feb. 13, 2015).

46. *Master of Science in Exercise & Sport Studies*, SMITH COLL., [http://www.smith.edu/gradstudy/degrees\\_ess.php](http://www.smith.edu/gradstudy/degrees_ess.php) (last visited Feb. 13, 2015).

47. *Springfield College Executive Search Profile: Director of Athletics*, *supra* note 41.

must also maintain transparency and high levels of communication with the coaches, faculty, administrators, and staff on campus.

## 2. Responsibilities to Superiors and Communities

While Division III athletic directors have many people to supervise, they are generally not at the top of institutional leadership. In most cases they too have superiors — either the school president or deans of the college and other administrators — depending on the institution. At some schools, athletic directors will report directly to the president, while at other schools they will report to deans of the college, often those with responsibilities related to student life.

In addition to maintaining open communication with on-campus superiors, athletic directors will often function as the athletic department's public relations representative in speaking engagements and digital communication initiatives targeted toward the local community and various off-campus groups such as alumni, friends, and fans of the athletic department. In this capacity, athletic directors have an opportunity to engage with the off-campus community to maintain their connection with the institution and keep the community informed about general athletics-related news and more publicized issues that may occur under the athletic directors' supervision. In many ways, public appearances allow athletic directors to embody the athletic department and speak on behalf and in the interest of the school's athletics staff and student-athletes.

### 3. Delegation of Responsibilities across Athletic Department

In addition to responsibilities related to specific head coaches, athletic directors must organize and fulfill strategic plans for various roles within the athletic department, including administration, strength and conditioning coaching, event coordination, and other specific athletics-related responsibilities. Under the guidance of superiors, athletic directors are tasked with determining the structure of their support staff of administrators. In an effort to effectively manage financial resources, athletic directors will often appoint coaches to serve dual roles within the athletic department, with each having a formal role as a head coach as well as an athletic administrator. For example, often a tenured female head coach in an athletic department will also serve as the school's Senior Women's Administrator (SWA) as seen with Kim Kelly, Carnegie Mellon head volleyball coach, and Nancy Fahey, Washington University at St. Louis head basketball coach.<sup>48</sup> In a more unusual example, the Wesleyan University head football coach also served as athletic director.<sup>49</sup>

Aside from serving in formal administrative roles, athletic directors will consider the strengths of coaches within the athletic department and assign duties beyond coaches' team responsibilities that complement their skill set. These tasks are often in the form of teaching physical education classes at the college or handling a less formal administrative task, such as facilities management,

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48. *UAA Senior Woman Administrators*, UNIV. ATHLETIC ASS'N, [http://www.uaa.rochester.edu/administrative/UAA\\_Directory/SWAs.htm](http://www.uaa.rochester.edu/administrative/UAA_Directory/SWAs.htm) (last visited Feb. 18, 2015).

49. *Coaching & Administrative Staff Directory*, WESLEYAN ATHLETICS, [http://www.wesleyan.edu/athletics/deptinfo/staff\\_directory.html](http://www.wesleyan.edu/athletics/deptinfo/staff_directory.html) (last visited Feb. 13, 2015).



intramurals supervision, game management, or event coordination.<sup>50</sup> At Denison University, every coach has multiple duties, including the head football coach.<sup>51</sup> Athletic directors must also determine the level of emphasis and financial commitment the department will make in terms of strength and conditioning. With varying philosophies of — and levels of — resources committed to strength and conditioning, there is no consensus on strength and conditioning staffing and programming across Division III athletic departments. Some schools carry a full-time strength and conditioning coach,<sup>52</sup> while others have part-time coaches or utilize an existing, qualified head or assistant coach.<sup>53</sup>

#### 4. Hiring and Employment Practices

Hiring coaches is another important part of being a Division III athletic director. While head coaches frequently pick their own assistant coaches, the athletic director has the final approval in all personnel decisions. Athletic directors carry the ultimate responsibility for the employment environment provided to the athletic department staff and, in

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50. *Staff Directory*, HAVERFORD ATHLETICS, <http://haverfordathletics.com/information/directory/index> (last visited Feb. 13, 2015) (showing head coaches serving multiple roles across the department).

51. SHULMAN & BOWEN, *supra* note 13, at 236.

52. *See, e.g., Central Strength and Conditioning*, CENTRAL COLL., <http://www.central.edu/athletics/strength> (last visited Feb. 13, 2015); Staff Directory Profile of Steve Murray, MACALESTER COLL. ATHLETICS, <http://athletics.macalester.edu/staff.aspx?staff=69> (last visited Feb. 13, 2015).

53. *See, e.g., Paul Michalak*, TRINITY UNIV. FOOTBALL, [http://www.trinitytigers.com/sports/fball/coaches/Paul\\_Michalak?tmpl=/information/directory/bio-template](http://www.trinitytigers.com/sports/fball/coaches/Paul_Michalak?tmpl=/information/directory/bio-template) (last visited Feb. 13, 2015); *Strength and Conditioning Staff Profile of Jonathan Dean*, CHRISTOPHER NEWPORT UNIV. ATHLETICS, [http://www.cnusports.com/sports/2012/12/12/GEN\\_1212125309.aspx](http://www.cnusports.com/sports/2012/12/12/GEN_1212125309.aspx) (last visited Feb. 13, 2015).

many hiring decisions, must consult the college human resources staff in order to accord with employment law. With relatively small operating budgets and a large supply of candidates interested in working in athletics, athletic directors will often utilize non-traditional hiring practices by hiring employees on an internship or graduate assistantship basis. However, as in any workplace environment, athletics staff members hold the right to file suit for any and all employment violations made by hiring representatives of the college. For example, in 2013, Benjamin Kozik, an assistant coaching intern with the Hamilton College football and women's basketball teams, filed a complaint against the college, alleging that the college classified him and other assistant coaches as interns to avoid paying them a "regular wage." In case documentation, Kozik claims that he and his associates, as interns, were required to fulfill the duties of regular full-time assistant coaches despite being paid only a meager stipend and working up to 100 hours per week, equating to *pay per hours worked* inconsistent with both the federal and state minimum wage.<sup>54</sup> According to the case docket, the class-action suit was dismissed by reason of settlement between the two parties on January 28, 2014. [As of writing, there are no official reports as to the details of the settlement.]<sup>55</sup>

Although not an implicated party in the case, the athletic director at Hamilton College is noted in case documentation as a department employee involved with creating the pay structure and responsibilities of coaching interns, in addition to carrying the ultimate responsibility for the entire Hamilton College athletics staff. Prior to the filing

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54. Abigail Rubenstein, *Even Paid Interns May Cause Wage-Hour Woes, Suit Shows*, LAW360 (Jan. 30, 2013, 7:22 PM), <http://www.law360.com/articles/411439/even-paid-interns-may-cause-wage-hour-woes-suit-shows>.

55. Collective & Class Action Complaint, *Kozik v. Hamilton College* (U.S.D. N. Dist. N.Y. Dec. 20, 2012) (No. 6:12-cv-01870).

of the case, Hamilton Athletic Director Jon Hind made attempts to increase the pay for interns and the department's budget, but he did not receive approval from the Board of Directors to do so.<sup>56</sup> However, as noted above, the athletic director was not a defendant in the case, as the plaintiff pursued the college instead of individuals within the athletic department.

#### 5. Employment Considerations to Protected Classes

Athletic directors and athletic department hiring representatives at all levels must monitor their own and the department's decision-making as it relates to hiring decisions associated with protected classes. As in any workplace environment, discrimination of any protected class in hiring practices is a paramount concern in the Division III athletic department, as significant litigation has taken place in this area. For example, in 2006, the Brandeis University athletic director recommended the termination of the head softball coach, who had served 32 years as the school's first and only head softball coach at the time. The decision was made to fire the coach, and three months after the termination, the coach filed a lawsuit claiming that the termination was part of the university's strategic plan to replace older coaches with younger candidates. Brandeis responded and cited the coach's ineffectiveness as a recruiter and prevailing poor winning percentage.<sup>57</sup> The

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56. Marlene Kennedy, *Interns Sue Hamilton College in Class Action*, COURTHOUSE NEWS SERVICE (Dec. 27, 2012, 10:25 AM), <https://www.courthousenews.com/2012/12/27/53437.htm>.

57. Greg Scholand, *A Solid Defense*, ATHLETIC MGMT. MAG. (Apr.–May 2011), [http://www.athleticmanagement.com/2011/04/03/a\\_solid\\_defense/index.php](http://www.athleticmanagement.com/2011/04/03/a_solid_defense/index.php); Gordon T. Davis, *Investigation Disposition*, BOSTON.COM (Jul. 15, 2009, 4:17 PM), <http://boston.com/multimedia/community/yourtown/sullivanruling.pdf>.

Massachusetts Commission Against Discrimination investigator found probable cause against Brandeis and no probable cause against the former head softball coach.<sup>58</sup> There is no further information available on the case.

Diversity in leadership positions within Division III athletic programs is limited, with white head coaches leading 93 percent of all men's teams and 92 percent of all women's teams, both of which are higher rates than in Divisions I and II.<sup>59</sup> Gender differences also exist at the head and assistant coaching levels with respect to compensation, employment status, and overall representation.<sup>60</sup> Although ideal hiring practices in staffing for diversity and gender equity may be difficult to achieve, athletic directors must be aware of and develop internal systems to account for protected class disparities existing in their athletic department.

Due to the lack of diversity among Division III college coaches, particular athletic departments have developed diversity strategies to attract top-level talent across all backgrounds. Carleton College is a leader in supporting diversity initiatives within its Division III athletic department. In Leon Lund's final year as Carleton athletic

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58. Investigative Disposition, *Mary Sullivan v. Brandeis Univ. & Sheryl Sousa*, MCAD Docket No. 06BEM02314, EEOC Docket No. 16C-2006-02236 (2009), *available at* <http://boston.com/multimedia/community/yourtown/sullivanruling.pdf>.

59. Richard E. Lapchick, *Sense of Urgency Needed to Address Collegeso Lack of Diversity*, *SPORTS BUSINESS J.* (Dec. 22, 2008), <http://m.sportsbusinessdaily.com/Journal/Issues/2008/12/20081222/Opinion/Sense-Of-Urgency-Needed-To-Address-Colleges-Lack-Of-Diversity.aspx>.

60. NICOLE M. BRACKEN & ERIN IRICK, 2004-2010 GENDER-EQUITY REPORT (2012), 9-10 [hereinafter GENDER-EQUITY REPORT], *available at* <http://www.nwcaonline.com/nwcawebsite/docs/downloads/ncaagender-equityreport2010.pdf?sfvrsn=0>.

director in 2010, the program was honored for “Overall Excellence in Diversity” and also received an award in the “Diversity Strategy” category from the Texas A&M University Laboratory for Diversity in Sport. Upon receiving this recognition, Lund stated that diversity plays a large role in the philosophy of the athletics department, especially in the hiring of coaches. He cited the necessity of advertising and networking in all avenues to source potential hires, and the necessity to follow up by convincing sought-after diversity-enhancing candidates that Carleton is the right place to be.<sup>61</sup> In 2010, former Associate Athletic Director Gerald Young, a black administrator with significant experience in diversity training, replaced Lund as athletic director.<sup>62</sup>

## 6. Student Health and Safety

The athletic director is responsible for the health and safety of every student-athlete, coach, staff member, and fan involved with the athletic program, as all of those may bring lawsuits if they are injured or otherwise harmed in connection with the athletic department.<sup>63</sup> On average, athletic directors at schools without football programs must manage the safety of approximately 280 athletes, while at schools with football programs this number jumps to roughly 530, due to increased counts of football players and female student-athletes.<sup>64</sup> In addition to varsity-level student-athletes on campus, athletic directors may be

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61. *Diversity In D-III*, ATHLETIC MGMT. MAG. (Feb.–Mar. 2010), [http://www.athleticmanagement.com/2010/02/20/diversity\\_in\\_d-iii/index.php](http://www.athleticmanagement.com/2010/02/20/diversity_in_d-iii/index.php).

62. *Gerald Young, Athletic Director*, CARLETON COLL., [http://apps.carleton.edu/athletics/about/directory/Gerald\\_Young](http://apps.carleton.edu/athletics/about/directory/Gerald_Young) (last visited Feb. 13, 2015).

63. See WALTER T. CHAMPION, JR., *FUNDAMENTALS OF SPORTS LAW* 2013-2014 SUPPLEMENT 76, 92 (2d ed. 2013).

64. *Division III Facts and Figures*, *supra* note 28.

responsible for the health and safety of students participating in junior varsity, intramural,<sup>65</sup> and fitness activities.<sup>66</sup> Through managerial and hiring practices, the athletic director puts staff members in a position to provide a high level of care and treatment to those with physical or mental needs. Actions in this capacity can be preventative or reactive, as constant updates must be made to prevent future health concerns while maintaining the ability to provide any treatment that may be needed by a student-athlete.<sup>67</sup> Specifically, athletic directors may develop strategies to organize health and safety policies and clarify liability issues related to travel to and from athletic events. As athletic programs continue to take athletics-related trips during school breaks, both domestically and internationally, athletic directors must be proactive in maintaining safety-oriented policies and accountability. These policies must apply to not only more significant travel instances but also day-to-day travel, such as students leaving games with parents, student-athletes driving vans filled with teammates, and student-athletes spending varying amounts of time in hotels in unfamiliar cities. The athletic director must have a working understanding of the ever-changing NCAA bylaws related to student health as presented in NCAA documentation such as the “NCAA Sports Medicine Handbook.” However, the school’s athletic training staff performs the majority of the physical treatment of student athletes. The athletic director hires and supervises the director of athletic training, who manages a relatively small staff of roughly five to 10 assistant athletic trainers, each generally holding a master’s degree in athletic training and various certifications (NATABOC, CSCS, etc.). Amherst

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65. See, e.g., CHAMPION, JR., *supra* note 63, at 92 (lawsuits have been brought in all those circumstances).

66. *Emerson College Executive Search Profile*, *supra* note 44.

67. WALTER T. CHAMPION, JR., *FUNDAMENTALS OF SPORTS LAW* 2013-2014 SUPPLEMENT 250 (2d ed. 2013).

College<sup>68</sup> and Bowdoin College<sup>69</sup> each employ five athletic trainers including a director of athletic training, while Wheaton College (Illinois) staffs nine trainers, although only two are employed by the athletic department.<sup>70</sup> To draw a comparison to a high-profile Division I athletic training staff, the Louisiana State University (LSU) training staff carries 10 full-time athletic trainers employed directly by the university, as well as 12 graduate assistant athletic trainers, 43 student athletic trainers (undergraduates assisting the graduate assistants and senior trainers), and 22 additional healthcare staff (mostly contracted through other private practices) with titles including team physician, dentist, radiologist, orthopedic surgeon, team psychologist, and team neurologist.<sup>71</sup>

## 7. Student Health and Safety Issues and Litigation

Student-athletes assume a level of risk when playing their respective sports;<sup>72</sup> if health issues are not mitigated or handled properly by the athletic department, the athletic director and respective staff members may be held responsible for any downstream litigation.<sup>73</sup> A lawsuit filed

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68. *Staff Directory*, AMHERST COLL., <https://www.amherst.edu/athletics/department/directory> (last visited Feb. 13, 2015).

69. *Staff Directory*, BOWDOIN COLL. DEP'T OF ATHLETICS, <http://athletics.bowdoin.edu/information/directory/index> (last visited Feb. 13, 2015).

70. *Wheaton College Sports Medicine*, THE OFFICIAL SITE OF WHEATON ATHLETICS, [http://athletics.wheaton.edu/sports/2008/2/12/sports\\_medicine.aspx?tab=sportsmedicine](http://athletics.wheaton.edu/sports/2008/2/12/sports_medicine.aspx?tab=sportsmedicine) (last visited Feb. 13, 2015).

71. *LSU Athletics Staff Directory*, LSUSPORTS.NET, [http://www.lsusports.net/ViewArticle.dbml?DB\\_OEM\\_ID=5200&ATCLID=177229](http://www.lsusports.net/ViewArticle.dbml?DB_OEM_ID=5200&ATCLID=177229) (last visited Feb. 13, 2015).

72. CHAMPION, JR., *supra* note 63, at 106.

73. *See generally id.*

against Division III member Frostburg State University for wrongful death of a student-athlete on the football team serves as a tragic example of the result of alleged negligence with respect to player safety.<sup>74</sup> According to lawsuit documentation, Derek Sheely, senior fullback and captain of the Frostburg State football team, collapsed following a preseason drill at the Division III school in western Maryland and died six days later on August 28, 2011.<sup>75</sup> Case documentation also states that in practices leading up to Sheely's collapse, Frostburg coaches used derogatory and demeaning language to push Sheely and other players through high-contact drills.<sup>76</sup> Sheely's family filed a lawsuit against the NCAA, the Frostburg head football coach, a Frostburg assistant football coach, a Frostburg assistant athletic trainer, and Kranos Corporation, the holding corporation of Schutt Sports and producer of injury-preventing football helmets.<sup>77</sup> The wide range of defendants in this case, and more specifically the department-level staff of the implicated athletic department, demonstrates the need for athletic directors to effectively monitor and implement NCAA health and safety policies to avoid litigation and, more important, profound and fatal injuries.<sup>78</sup> It is important to mention that numerous health and safety cases exist across all NCAA Divisions and no specific health issue is

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74. Nathan Fenno, *Death of Frostburg State Player Derek Sheely Due to 'Egregious Misconduct,' Lawsuit Says*, WASHINGTON TIMES (Aug. 22, 2013), <http://www.washingtontimes.com/news/2013/aug/22/death-frostburg-state-player-derek-sheely-due-egre/?page=all>; Juan Carlos Rodriguez, *Lawsuit Targets NCAA, Helmet Maker Over Death of Player*, LAW360 (Aug. 23, 2013, 3:55 PM), <http://www.law360.com/articles/467330/lawsuit-targets-ncaa-helmet-maker-over-death-of-player>.

75. Fenno, *supra* note 74.

76. Second Amended Complaint, *Sheely v. Nat'l Collegiate Athletic Ass'n*, (Md. Cir. Ct. Aug. 22, 2013) (No. 380569V), 7.

77. *Id.*

78. *Id.*



necessarily a symptom of Division III athletics — many cases result in injury and not litigation.

In response to growing concerns over student-athlete health and safety related to the brain and psychological issues, the NCAA instituted the Mental Health Task Force to ensure that member-institution athletic trainers, physicians, athletic directors, and coaches address mental health issues with student-athletes.<sup>79</sup> By studying and increasing the awareness of mental health issues that many student-athletes face on a day-to-day basis, the Task Force plans to create and disseminate educational materials to be digested by athletic directors, coaches, and athletes.<sup>80</sup> It is imperative that Division III athletic directors adopt the policies set forth by the Task Force — not only to abide by NCAA bylaws, but also to put student-athletes in the best position possible to overcome mental health issues.

## 8. Hazing

Also at the heart of student-athlete safety is the issue of hazing. Hazing is generally described as a situation in which members of a team are intentionally embarrassed or harassed, regardless of the individuals' consent.<sup>81</sup> Athletic directors' primary responsibilities with respect to hazing are to determine the athletic department's hazing policies, communicate policies to coaches and other responsible parties, follow up and ensure adherence to policies, and make swift and effective decisions (firings, suspensions,

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79. Brian Burnsed, *NCAA Mental Health Task Force Holds First Meeting*, NCAA (Nov. 26, 2013, 12:00 AM), <http://www.ncaa.org/about/resources/media-center/news/ncaa-mental-health-task-force-holds-first-meeting>.

80. *Id.*

81. *Facts: What Hazing Looks Like*, HAZINGPREVENTION.ORG, <http://hazingprevention.org/home/hazing/facts-what-hazing-looks-like/> (last visited Feb. 3, 2015).

etc.) in the event of hazing. Athletic directors place a strong emphasis on the prevention of hazing across athletic teams, because recent high-profile incidents have compromised the reputations of many athletics programs.<sup>82</sup>

Hazing is equally relevant at all levels of NCAA competition, and Division III programs face the same challenges as their Division I and II counterparts. Although athletic directors usually do not spend time working directly with student-athletes, it is imperative that athletic directors effectively communicate the gravity of hazing violations to student-athletes through department staff and coaches. From the athletic director's perspective, hazing policy creation and supervision are regular responsibilities, while implementation and reporting fall solely on coaches and, ideally, self-policing student-athletes. It is common for an athletic department to develop a hazing policy to be included in the student-athlete handbook or in a standalone form, for student-athletes to ingrain the policies and provide their signatures to demonstrate their willingness to cooperate with the code. Washington and Lee University includes its Hazing and Retaliation Policy in the student-athlete handbook and, within the document, includes the definition of hazing, policies on reporting violations, procedures for determining judgment and punishment, and a disclaimer that allows the school to interpret hazing beyond the specific examples laid out in the handbook.<sup>83</sup>

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82. Theodore V. Wells, Jr., Brad S. Karp, Bruce Birenboim, & David W. Brown, *Report To The National Football League Concerning Issues of Workplace Conduct at the Miami Dolphins* (Feb. 14, 2014), <http://63bba9dfd9675bf3f10-68be460ce43dd2a60dd64ca5eca4ae1d.r37.cf1.rackcdn.com/PaulWeissReport.pdf>.

83. *Washington and Lee Student Athlete Handbook*, OFFICIAL SITE OF WASHINGTON & LEE ATHLETICS, [http://www.generalssports.com/information/Inside\\_Athletics/sahandbook/index](http://www.generalssports.com/information/Inside_Athletics/sahandbook/index) (last visited Feb. 13, 2015).

Many institutions choose to handle hazing cases internally, enabling the athletic director to take a role in the process, as seen at York College in 2013.<sup>84</sup> In this case, the entire 42-man wrestling team was investigated in late 2013 after an anonymous tip to school officials reported that some members of the team were hazing other teammates. The judicial board, comprised of faculty and school administrators, investigated 30 students who were handed sanctions ranging from warning to expulsion. Other members of the team were found not responsible and records of their charges were expunged. Following school sanctions, the York College athletic director and head wrestling coach were granted the right to impose further sanctions against those involved. Since the case was handled entirely by the school, and no local law enforcement officials were involved, there is no record as to how many students received sanctions. Though all appeals were denied, there is no record as to further sanctions handed down by the coach or athletic director. As demonstrated in this case, athletic directors must maintain awareness of each team's behavior and take proactive measures upon discovery of any infractions.<sup>85</sup>

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84. See *York College Investigation Confirms Hazing; Sanctions Range from Warnings to Expulsions*, YORK DAILY RECORD (Nov. 9, 2013, 11:49 AM), [http://www.ydr.com/sports/ci\\_24480109/york-college-students-sanctioned-after-hazing-investigation-suspension](http://www.ydr.com/sports/ci_24480109/york-college-students-sanctioned-after-hazing-investigation-suspension).

85. See Zach Berman, *Lacrosse Program Shaken by Hazing Inquiry*, N.Y. TIMES, Jul. 7, 2012, at D1.

## **B. Strategic Planning**

Athletic directors can be likened to CEOs, in that they help develop, oversee, delegate, and execute the high-level strategy of both the institution's individual athletic programs and the program as a whole. The athletic director manages the athletic department and works with the institution at large in a manner consistent with the strategic plan. These goals vary by institution and by athletic program within the department. For certain institutions or specific sports within an institution, competing at the national level is expected and setting goals of winning national championships is reasonable. For others, simply competing within the conference is a realistic goal. Athletic directors must recognize the strengths and weaknesses across their program's distinct teams and shape goal-setting on individual bases around these realities.

### **1. Student-Athlete Recruiting and Retention**

A major component of an athletic department's strategic plan is student-athlete recruiting. Athletic directors play a key role in this process at an operational and interpersonal level by maintaining adherence to NCAA bylaws,<sup>86</sup> controlling the department's recruiting budgets for each sport, and managing coaches' progress throughout the recruiting cycle. At some institutions, athletic directors are seen as drivers of overall enrollment, and teams (such as football) are formed to boost enrollment at the school during economic down times. Financial resources present a critical challenge in this process, as individual sport budgets for recruiting are, on average, just more than \$2,000 per year.<sup>87</sup>

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86. NCAA DIVISION III MANUAL, *supra* note 16, at § 13.01

87. *The Equity in Athletics Data Analysis Cutting Tool*, OFFICE OF POSTSECONDARY EDUC., <http://ope.ed.gov/athletics/index.aspx> (last

In many cases, a limited recruiting budget constrains recruiting to local geographic areas. However, many coaches and athletic departments are also able to find creative ways to recruit players at the national and international levels. Amateur Athletic Union (AAU) tournaments, showcase events, and various selective high school sport tournaments provide athletic departments a one-time cost for coaches to identify many prospective recruits over the course of a weekend, for instance. In contrast to the somewhat limited model of collegiate coaches visiting one specific high school game at a time to evaluate one or two players, the recruiting model has become more cost-efficient with the growing popularity of selective tournaments, especially with specific participation criteria such as “academic tournaments” allowing for higher efficiency recruiting for coaches at selective colleges.<sup>88</sup>

After successful recruitment, retaining student-athletes is a concern for many athletic directors. Though fewer risks are observed at more selective Division III institutions, athletic directors may be required to manage cases involving risks of individual student-athletes’ athletic ineligibility as enforced at the conference or NCAA level. At the Division III level, student-athlete eligibility is determined by the individual’s good academic standing at his or her particular school. Student-athletes do not have specified student services programs, but, rather, academic services are provided to the entire student body. As athletic directors operate without the aid of unique student-athlete or academic service departments, they must utilize head and assistant coaches to monitor student-athlete academic,

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visited Feb. 13, 2015) (average found by selecting sorting options to reach data).

88. *General Camp Information*, HEADFIRST HONOR ROLL CAMPS, <http://www.headfirsthonorroll.com/general-baseball-prospect-camp-info.asp> (last visited Feb. 18, 2015).

personal, and professional progress.<sup>89</sup> With this delegation of responsibility, coaches take on an involved role and form well-rounded relationships with student-athletes. Coaches not only watch over their roster's academics, but also monitor their personal skill development in extracurricular areas such as leadership. Athletic directors will also concern themselves with keeping student-athletes engaged in their respective sports and retaining their participation and engagement as athletes.

For athletic directors, successful student-athlete retention begins with strategic decisions in hiring head coaches. In many ways, the head coach embodies and creates the substance of a student-athlete's athletic experience, and athletic directors must seek the proper "fit" with consideration paid to the culture of the institutional student-body as well as each sport. Athletic directors will also take on the role of marketers, to develop school spirit and attendance at athletic events. Attracting local community members, alumni, and students to athletic events creates a buzz and in turn generates a greater sense of purpose and community connection for student-athletes. Developing and maintaining sponsorship opportunities with local and regional businesses also provides additional revenue to support the athletic department.<sup>90</sup>

## 2. Admissions

In the recruiting process, athletic directors must not only have a strong understanding of the recruiting system and chronology but also possess significant knowledge of the inner workings and department leaders at their particular

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89. *About SAAS*, UNIV. OF S. CAL. STUDENT-ATHLETE ACAD. SERVICES, <http://saas.usc.edu/about> (last visited Feb. 13, 2015).

90. *University of Wisconsin-Whitewater Executive Search Profile*, ALDEN & ASSOC'S, <http://www.aldenandassoc.com/executive-search/past-searches.html> (last visited Feb. 18, 2015).

institutions. Athletic directors must make difficult decisions when communicating across departments. For example, they face challenges when choosing “which battles to fight” with the Office of Admissions. Not every student will be admitted to the school, so athletic directors must be prudent when determining which students to support. Coaches of individual sports are generally expected to do the in-person legwork required to attract student athletes to campus, while athletic directors function as liaisons between the athletic department coaches and admissions at critical points in the recruiting process. Once a student-athlete has expressed interest in the school in the form of applying for admission, athletic directors will meet with coaches and admissions staff members to sort out any issues related to the admissions process.

Athletic directors must have a clear understanding of the admissions process, as it involves key subordinates of the athletic director as well as key superiors in the admissions staff, most often the Dean of Admissions. In the common admissions cycle, the athletic department will provide admissions with “rating sheets” for each prospective student-athlete, assessing the candidate’s ability and the team’s need for the athlete. This information may be useful in making an admissions decision, and the process is very important in maintaining head coach recruiting motivation and time commitment. Athletic directors pay special consideration to getting “early reads” to gauge the potential admissibility of prospective student-athletes, allowing head coaches to have insight into which student-athletes to focus on and to reduce wasted efforts for inadmissible candidates. However, academic strengths of applicants are evaluated in the same manner as non-athletes. When academic rating falls below a specific level of criteria, athletics’ need of the

athlete and any minority or special status are factored and considered as criteria for that student's admissibility.<sup>91</sup>

The athletic director will oftentimes step in during difficult admissions decisions to "go to bat" for specific student-athletes on behalf of the head coach. In conflicts between coaches and the admissions staff, athletic directors must choose in which cases they will support their coaches' wishes for the admittance of a student and in which cases they will explain alternative paths to respective coaches. Generally, athletic directors will provide alternative solutions for both parties to get a more well-rounded view of a prospective student-athlete; these approaches include inviting the student-athlete to campus for a formal interview with admissions staff members and communicating to the student-athlete specific actions he or she can take to improve probability of admittance (usually through augmenting the high school course load with advanced-level courses or retaking a standardized test such as the SAT or ACT).

Colleges with needs and desires for improvement in specific sports or areas of athletic participation may form ad hoc committees or special task forces to achieve results. A strong example of this admissions-athletics tandem approach occurred in 2011 at Kenyon College, an athletic program that at the time had won 54 NCAA Championships in Men's and Women's Swimming and Diving but had not achieved a winning record in football since 2005. Jennifer Delahunty, dean of admissions and financial aid at Kenyon, led an ad hoc committee established in the summer of 2011 to develop a strategic plan to improve the football program's performance and recruiting capabilities, as she claimed the school was losing talented prospective athletes to Ivy

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91. WILLIAM G. BOWEN & SARAH A. LEVIN, RECLAIMING THE GAME: COLLEGE SPORTS AND EDUCATIONAL VALUES, 62-63 (James L. Schulman et al. eds., 2005).



League, NESCAC, and Patriot League schools. The committee recommended and implemented significant changes to admissions operations in relation to the football team, including policies that allowed “admissions staffers to provide an early read on a recruit's chances for admissions and . . . provide an early notification to the student-athlete.”<sup>92</sup>

### 3. Consideration for Actions of Student-Athletes, Parents, and Alumni

At the Division III level, athletic directors are more accessible to student-athletes and parents than at larger Division I universities, and they will often need to directly handle issues faced or caused by student-athletes. Generally, the student-athlete's head coach will handle commonplace issues, but in more extreme circumstances involving severe poor academic performance or social behavior, the athletic director may be asked to step in and manage the situation. In other cases, athletic directors may face pressure from parents, alumni, or fans to influence internal athletic department decision-making regarding student-athlete playing time, budget allocation, athletic department building projects, coaching assignments, and other athletics-specific issues. Despite these challenges, successful athletic directors will acknowledge external opinions with respect and internally decipher which opinions to consider. Additionally, they will conduct such decision-making with professionalism and give full consideration of all relevant input from the interested parties.

In reference to student-athlete discipline, particular cases may prove more complex and become much larger issues than the athletic department initially intended. In a

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92. Dennis Read, *All in the Plan*, ATHLETIC MGMT. MAG., (Jun.–Jul. 2012), [http://www.athleticmanagement.com/2012/05/28/all\\_in\\_the\\_plan/index.php](http://www.athleticmanagement.com/2012/05/28/all_in_the_plan/index.php).

2012 case<sup>93</sup> filed by former Middlebury College hockey player Jack Knelman against the college and his hockey coach Bill Beaney, the plaintiff sought tuition reimbursement and economic loss from a professional hockey career after being unexpectedly released from the team by Beaney during the 2010-2011 season.<sup>94</sup> The plaintiff also cited that Middlebury and Beaney had breached their contract with Knelman by, among other things, “failing to adhere to the NCAA Division III’s requirement that Middlebury assure the actions of its coaches and administrators exhibit fairness and honesty in their relationships with student-athletes.”<sup>95</sup> Erin Quinn, athletic director at Middlebury, is not explicitly stated to be an involved party in this case, however the claims made by Knelman allege administrative discordance with NCAA bylaws, which the athletic director holds ultimate responsibility for upholding across the athletic department.

### C. Compliance

Far from the limelight of the media and marketing attention, some of the athletic directors’ most important tasks include working in congruence with NCAA and conference regulations. At the Division I level, it is not uncommon for an athletic department to have the largest proportion of their employees working in the compliance department under an Associate Athletic Director for Compliance.<sup>96</sup> At this high level of competition and profitability, compliance employees are a form of security or insurance for the athletic department, because infractions

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93. CHAMPION, JR., *supra* note 63, at 211.

94. *See* Knelman v. Middlebury Coll., 898 F. Supp. 2d 697 (D. Vt. 2012) *aff’d*, 570 F. App’x 66 (2d Cir. 2014).

95. *Id.*

96. *Department of Athletics Organizational Chart*, OHIO STATE, <http://grfx.cstv.com/schools/osu/graphics/pdf/genrel/org-chart-athletics.pdf> (last visited Feb. 13, 2015).

can be extremely costly if sanctions such as postseason bans or recruiting restrictions are imposed. While compliance with NCAA bylaws is a key function of the athletic director at the Division III level, the potential losses resulting from infractions are not as significant as those in Division I programs. Therefore, athletic directors in Division III are expected to head all compliance efforts, though there is the possibility of help from an assistant or associate athletic director who handles the finer details of compliance, operations, and facilities.

Particular issues, such as amateurism, are more prevalent at the Division I level and are not as common in Division III athletics. Despite the differences, compliance with NCAA regulations still requires significant attention by Division III athletic directors.<sup>97</sup> NCAA compliance regulations extend over the entire experience a student-athlete has with a particular institution, from recruiting to graduation. Although, compared to their Division I counterparts,<sup>98</sup> Division III athletic directors do not face the same level of pressure from off-campus parties, such as alumni or boosters, yet innate pressures to promote success on the field and in the classroom may lead to compliance issues. In Division III, department-level infractions may take the form of unauthorized compensation to students for athletic achievements or overlooking poor academic performance in order to maintain a student's athletic eligibility. In addition, specific issues such as impermissible

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97. *University of Wisconsin-Whitewater Executive Search Profile*, *supra* note 90.

98. Pat Forde, *Source: Mack Brown Forced Out as Texas Coach after President Withdrew Support*, YAHOO! SPORTS (Dec. 23, 2013, 7:57 PM), <http://sports.yahoo.com/news/source--mack-brown-forced-out-as-texas-coach-after-president-withdrew-support-005700558.html>; Mack Brown, SPORTS REFERENCE: COLLEGE FOOTBALL, <http://www.sports-reference.com/cfb/coaches/mack-brown-1.html> (last visited Feb. 18, 2015).

benefits in the form of financial aid infractions, Title IX noncompliance, and academic dishonesty are key areas of NCAA regulation in which athletic directors focus their attention.

### 1. General Compliance Issues

Athletic directors are responsible for maintaining a culture of compliance for their own actions as well as those of coaches and staff. Institutions that have had an individual non-compliant team have been served punishments that affect more than just the infracting team. In 2012, the NCAA Division III Committee on Infractions cited the football coaching staff at Division III Illinois College for unethical conduct with respect to compliance issues and put the athletic department as a whole on three years of probation in the form of recruiting restrictions.<sup>99</sup> Athletic directors not only must maintain compliance with federal government, NCAA, and conference and school bylaws, but they are also responsible for the completion and submission of each organization's reporting requirements.

### 2. Financial Aid Infractions

Financial aid infractions are prevalent at the Division III level, as athletic department representatives may offer impermissible benefits to student-athletes in order to competitively recruit and retain them. NCAA regulations bar member institutions from awarding financial aid to any student on the basis of athletics leadership, ability, participation, or performance.<sup>100</sup> Despite pressures to offer

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99. The Associated Press, *Illinois College Put on Three Years Probation for Unethical Conduct*, NCAA, <http://www.ncaa.com/news/football/article/2012-08-24/illinois-college-put-three-years-probation-unethical-conduct> (last updated Aug. 24, 2012, 9:36 PM).

100. See NCAA DIII MANUAL, *supra* note 16, at § Figure 14-1.

impermissible benefits to student-athletes, athletic directors must be fully aware of financial aid regulations and ensure proper accordance with the bylaws.

In recent years, financial aid infractions at Division III institutions have occurred at many schools, including Kean University,<sup>101</sup> University of Wisconsin-La Crosse,<sup>102</sup> Maine Maritime Academy,<sup>103</sup> and Baldwin Wallace University.<sup>104</sup> In each of these cases, either the NCAA Committee on Infractions or the institution itself levied penalties, such as probation of particular sports, postseason bans, show-cause orders for coaches, vacating prior championships or tournament participation, public reprimand and censure, full disclosure of infractions to prospective student-athletes and in all athletics media outlets, and full compliance with recommendations made by the NCAA Committee on Financial Aid Committee following full review of the institution's financial aid practices.

*Pederson et al. v. NCAA et al.* is a 2014 case filed by one current and two former Kean University female student-athletes in response to their scholarships being removed (along with those of eight additional athletes) by the

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101. *NCAA Places Kean on Probation*, NCAA (Apr. 19, 2012, 3:34 PM), <http://www.ncaa.com/news/ncaa/article/2012-04-19/ncaa-places-kean-probation>.

102. *UW-La Crosse Punished by NCAA*, NCAA (Apr. 11, 2012, 4:01 PM), <http://www.ncaa.com/news/ncaa/article/2012-04-11/uw-la-crosse-punished-ncaa>.

103. *Maine Maritime Placed on Two Years Probation for Violating NCAA Rules*, Oct. 18, 2013, <http://www.ncaa.com/news/article/2013-10-18/maine-maritime-placed-two-years-probation-violating-ncaa-rules>.

104. *Baldwin Wallace Will Skip Postseason Play in All Sports this Season*, NCAA (Oct. 31, 2012, 9:58 AM), <http://www.ncaa.com/news/ncaa/article/2012-10-31/baldwin-wallace-will-skip-postseason-play-all-sports-season>.

university following warnings issued by the NCAA for improper financial aid offers to student-athletes.<sup>105</sup> According to case documentation, plaintiffs alleged that Kean unilaterally decided to prevent student-athletes from sport participation due to their entitlement to a “Dorsey Scholarship,” because the school’s NCAA distribution limit of this particular scholarship had been exceeded.<sup>106</sup> Furthermore, the plaintiffs were forced to make a decision between keeping their “Dorsey scholarships,” which provided roughly \$12,000 per semester, or continuing to play their sport, without the opportunity for a court hearing and prior to a complete NCAA investigation.<sup>107</sup> With women representing 73 percent of the student-athletes impacted by Kean’s decision, and the NCAA’s policies and procedures in violation of the New Jersey Law Against Discrimination, the plaintiffs were ruled to be members of a protected class that have allegedly been disproportionately impacted in this case.<sup>108</sup> “A New Jersey federal judge has denied the consolidation of a putative class action, siding with the NCAA, which argued procedural rules barred the combination of federal and state actions claiming female athletes had their scholarships rescinded due to NCAA rules that disproportionately affect women.”<sup>109</sup>

### 3. NCAA, Conference, and Institutional Eligibility

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105. Class Action Complaint, *Pedersen v. Nat’l Collegiate Athletics Ass’n* (D.N.J. Apr. 21, 2014) (No. 14-cv-02544).

106. *Id.* at 8-9.

107. *Id.*

108. *Id.* at 12.

109. Joshua Alston, *NCAA Sex Bias Suits Can’t Be Consolidated, NJ Judge Says*, LAW360 (Jan. 12, 2015, 8:18 PM), <http://www.law360.com/articles/610391/ncaa-sex-bias-suits-can-t-be-consolidated-nj-judge-says>.

The NCAA requires students to maintain a particular level of academic performance in order to compete at the intercollegiate level. More specifically, a student-athlete must be enrolled as a full-time student, be in good academic standing, and make consistent, satisfactory progress toward a degree.<sup>110</sup> While Division I athletic departments generally have administrators who are responsible for documenting student-athlete academic performance, Division III athletic directors or other administrators must directly monitor and manage this issue through reports made by coaches and athletic administrators.<sup>111</sup> At many Division III institutions, student-athletes must meet eligibility standards set not only by the NCAA but also by the respective conference and the institution.<sup>112</sup> Under these rules, Division III institutions cannot utilize common Division I eligibility waivers such as “redshirting.”<sup>113</sup> In many cases, institutions will maintain the ability to determine eligibility decisions on a case-by-case basis, determined by officials of the institution. Amherst College’s Student Handbook communicates this ad hoc approach in the Athletic and Physical Education section:

All full-time students at Amherst College are considered eligible to participate in the extracurricular activities of the college, unless barred from such participation by the dean of students for academic or disciplinary reasons.<sup>114</sup>

In addition to these eligibility policies, Amherst and all NESCAC schools provide Academic/Athletics Conflicts

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110. NCAA DIII MANUAL, *supra* note 16, at § 14.01.1.

111. *Id.*

112. *Id.*

113. *Id.*

114. *Athletics and Physical Education: Eligibility Rules*, AMHERST COLL. ATHLETICS & PHYSICAL EDUC., <https://www.amherst.edu/campuslife/deanstudents/handbook/athletics#Eligibility> (last visited Feb. 13, 2015).

policies to establish the priority of all academic responsibilities (i.e., “classes, meetings, or examinations”) and scheduling above any athletic commitment (e.g., “scrimmages or practice”).<sup>115</sup>

#### 4. Title IX<sup>116</sup>

Gender equity, both in hiring and in terms of athletic opportunity, is a critical facet of the job for an athletic director.<sup>117</sup> Enacted in 1972, Title IX promotes equal educational opportunity for all individuals in federally supported academic institutions. Because the law recognizes athletic pursuits as educational opportunities, athletic administrators are constantly monitoring compliance with Title IX.

Athletic directors must be keenly aware of Title IX issues, because the Office for Civil Rights within the Department of Education, rather than the NCAA, enforces Title IX.<sup>118</sup> This level jurisdiction assumes the possibility of federal litigation regarding infractions by collegiate athletic departments. Federal law requires schools meet the three sections of Title IX: (1) accommodate the interests and abilities of the underrepresented sex, (2) maintain strictly

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115. *Athletics and Physical Education: Academic/Athletic Conflicts Policy*, AMHERST COLL. ATHLETICS & PHYSICAL EDUC., <https://www.amherst.edu/campuslife/deanstudents/handbook/athletics#Conflict> (last visited Feb. 13, 2015).

116. U.S. DEP’T OF EDUC., TITLE IX ENFORCEMENT HIGHLIGHTS (2012), *available at* <https://www2.ed.gov/documents/press-releases/title-ix-enforcement.pdf>.

117. JANET JUDGE & TIMOTHY O’HEDERS NAT’L COLLEGIATE ATHLETIC ASS’N, GENDER EQUITY IN INTERCOLLEGIATE ATHLETICS: A PRACTICAL GUIDE FOR COLLEGES AND UNIVERSITIES 99 (Karen Morrison ed., 2010) [hereinafter *NCAA Gender Equity Guide*] *available at* <http://www.ncaapublications.com/DownloadPublication.aspx?download=GEOM11.pdf>.

118. U.S. DEP’T OF EDUC., *supra* note 116, at 2.



proportional levels of financial assistance to male and female student-athletes, or (3) maintain equivalence in treatment, benefits, and other opportunities for male and female student-athletes.<sup>119</sup> The first and third areas of the compliance test are most relevant to Division III athletic directors, because the second requirement does not apply, as the NCAA does not allow athletics-based financial assistance for Division III student-athletes.<sup>120</sup> For Division III athletic directors, gender equity issues arise on the basis of several different factors, including effective accommodation, program elimination, roster management, history and continuing practice of program expansion, treatment issues, financial aid, separate programs, retaliation, employment, sexual harassment, and adequate notice.<sup>121</sup>

The law of Title IX is intended to promote gender-equity across educational opportunities in the United States, yet it does not solely aim to protect the interest of students and student-athletes. In the 2008 case *Kiser v. Clark College*, the head women's basketball coach, who was under yearly renewable contracts and had a reputation at the school for complaining about the disparities of the men's and women's basketball programs, was terminated. The coach claimed his communication of gender-related disparities in basketball was the reason behind his termination and prevailed under an implied cause of action under Title IX for retaliatory employment action based on an employee's complaints of sex discrimination.<sup>122</sup>

#### **D. Financial Management**

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119. NCAA Gender Equity Guide, *supra* note 117, at 19.

120. *Division III Philosophy Statement*, *supra* note 18

121. NCAA Gender Equity Guide, *supra* note 117, at 19.

122. CHAMPION, JR., *supra* note 63, at 376.

At every level of athletic administration, management of finances is a critical aspect of running a collegiate athletic department. Athletic directors are expected to have a high degree of skill in both the budgeting of the school's athletic budget and fundraising. The costs of running a Division III athletic department are continually increasing, with median total expenses for all Division III departments with football programs growing more than 30 percent between 2008 and 2012, from \$2.3 million to \$3.0 million.<sup>123</sup> To highlight the disparity across Division III athletics spending and resources, the largest athletic department expenditures in 2012 were \$13.5 million, while the lowest were \$780,000.<sup>124</sup> However, even the largest reported Division III program expense pales in comparison to the median Division I FBS<sup>125</sup> program expense of \$56.3 million in 2012.<sup>126</sup> The largest reported expenditure level of a Division III school with football is more comparable to Division I FCS<sup>127</sup> schools and Division I schools without football, whose median total expenditures were \$13.8 million and \$12.8 million in 2012, respectively.<sup>128</sup>

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123. NATT 2.F \_REF288512600\H ASST, 2004-2013 NCAA DIVISION III REVENUES AND EXPENSES REPORT §•CAA Divis (2013) [hereinafter NCAA DIII REVENUES AND EXPENSES REPORT] *available at* <http://www.ncaapublications.com/DownloadPublication.aspx?download=D32013RevExp.pdf>.

124. *Id.* at §C2.4.

125. Brandon Lilly, *College Football Explained*, THE GUARDIAN (Oct. 10, 2012, 9:00 AM), <http://www.theguardian.com/sport/blog/2012/oct/10/college-football-explained-ncaa>.

126. NCAA DI REVENUES AND EXPENSES REPORT, *supra* note 20, at Table 2.1.

127. Lilly, *supra* note 125.

128. NCAA DIII REVENUES AND EXPENSES REPORT, *supra* note 123, at Table 2.4.

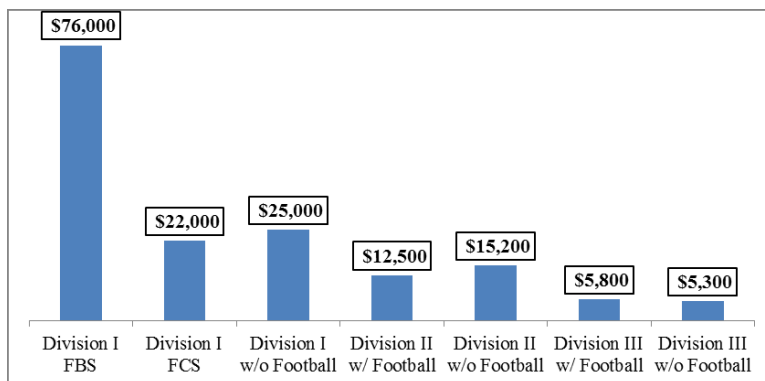
The athletic director must effectively manage the department's expenses and allocate funds for items such as salaries and benefits to coaches and staff, team travel, recruiting, equipment and uniforms, game expenses, medical expenses, membership dues, and facilities maintenance. Despite a wide array of expenses to consider, expenses per student-athlete at the Division III level are less than half of those at Division II schools, and roughly 13 times less than Division I FBS programs.<sup>129</sup> To provide insight into the proportional weight of these costs that the athletic director must balance, the mean salary and benefits expenses at Division III schools with a football program accounted for 45 percent of total expenses, with team travel and equipment as the second largest expense categories, representing 12 percent and 6 percent of total expenses, respectively.<sup>130</sup>

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129. NCAA DI REVENUES AND EXPENSES REPORT, *supra* note 20, at Table 2.2; *see also* 2004-2013 NCAA DIVISION II REVENUES AND EXPENSES REPORT Table 2.1 (2013), *available at* [http://www.ncaa.org/sites/default/files/D2\\_2013\\_RevExp.pdf](http://www.ncaa.org/sites/default/files/D2_2013_RevExp.pdf); *see also* NCAA DIII REVENUES AND EXPENSES REPORT, *supra* note 123, at Table 2.1. Please see chart below for further details.

130. NCAA DIII REVENUES AND EXPENSES REPORT, *supra* note 123, at Table 3.10, Table 2.1

### 2012 Median Expense per Student-Athlete by Division and Subdivision<sup>131</sup>



#### 1. Budgeting

In 2012, median athletics expenses represented an average of 5.0 percent of annual institutional spending at Division III institutions with football and 3.0 percent at schools without football.<sup>132</sup> Division I athletics budget percentages that year were comparable to those of Division III, with FBS Division I median athletics expenses representing 5.5 percent of institutional spending at institutions with football programs and 5.9 percent at those without football.<sup>133</sup> The vast majority of Division III athletic departments report no earned income, with total revenues primarily represented by college subventions and small NCAA distributions.<sup>134</sup>

131. *Id.* at Table 3.2; NCAA DII REVENUES AND EXPENSES REPORT, *supra* note 129, at Table 2.1; NCAA DIII REVENUES AND EXPENSES REPORT, *supra* note 123, at Table 2.2.

132. NCAA DIII REVENUES AND EXPENSES REPORT, *supra* note 123, at Table 2.5.

133. *Id.* at Table 2.7.

134. SHULMAN & BOWEN, *supra* note 13, at 245.

Due to the relatively small operating budget provided to athletic directors, the challenge is to provide the greatest student-athlete experience possible given the limited and fixed monetary resources. In 2012, at Division III schools with football programs, athletic departments incurred average expenses of roughly \$1.9 million, or just more than \$100,000 per program.<sup>135</sup> Included in these costs are salaries for head and assistant coaches, travel, lodging, food, equipment, uniforms, and game and event costs. Although the line items for particular athletic departments are similar, resources and budgets are not always proportional. In Division III conferences such as the NESCAC and the UAA, 2012 operating expenses reached roughly \$5 million and \$4.6 million per school, respectively, while SCIAC and MASCAC schools reported \$2.7 million and \$1.6 million, respectively.<sup>136</sup>

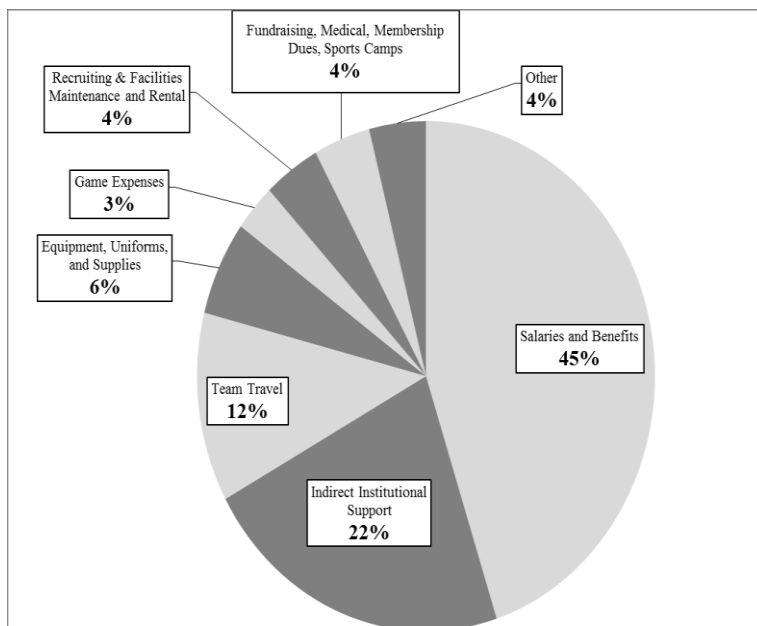
Athletic directors face the challenge of attracting the best coaches they can with an understanding of the limitations placed on their ability to pay a particular coach above budget. Finding this hiring “sweet spot” is a skill that athletic directors develop in time, along with an ability to convey incremental benefits beyond salary provided by employment within the athletic department, such as academic ranking, ease or relative ease of recruiting, number of assistant coaches, work-life balance, and reputation.

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135. *The Equity in Athletics Data Analysis Cutting Tool*, *supra* note 87 (average found by selecting sorting options to reach data).

136. *Id.*

### 2012 Average Division III Athletic Department Operating Expense Distribution<sup>137</sup>



## 2. Revenues and Fundraising

At the Division III level, athletic directors can expect the majority of their resources to come from three distinct sources: (1) institutional support, (2) NCAA distributions, and (3) fundraising. Overall, Division III competition does not produce revenues to support continuing operations of the athletic department; the nonprofit status of the school allows the athletic program to operate on a non-taxed, donation and distribution basis. In 2012, athletic departments of Division III schools with football programs received 5 percent of

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137. *Id.*

overall institution expenditures, while those without football programs received 3 percent.<sup>138</sup>

Augmenting institutional subventions are NCAA distributions, with overall distributions to Division III programs during the 2012-2013 school year at 3.18 percent of total NCAA operating expenses (\$25.3 million of \$618 million).<sup>139</sup> Division III distributions made by the NCAA are primarily used for NCAA championship expenses, at 77 percent of the distributions (\$20.9 million during the 2012-2013 school year), while conference grants and programs received \$4 million (15 percent), student-athlete services took \$1.8 million (7 percent), and membership support services received \$400,000 (1 percent).<sup>140</sup> Ultimately, NCAA distributions do not reach the operating budget of many Division III athletic departments, and therefore fundraising efforts are required to bridge the gap between institutional distributions and total operating costs. To cite a specific Division III athletic department, Denison University shows no earned income from athletics, with approximately \$4,105,854 in revenues and expenses,<sup>141</sup> and almost all revenues reflecting university subventions.<sup>142</sup> In other

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138. NCAA DIII REVENUES AND EXPENSES REPORT, *supra* note 123, at Table 2.5.

139. KATHLEEN T. MCNEELY, REVENUE – NACUBO, 5, (May 20, 2013), *available at* [http://www.nacubo.org/Documents/EventsandPrograms/2013HEAF/NCAA\\_Update.pdf](http://www.nacubo.org/Documents/EventsandPrograms/2013HEAF/NCAA_Update.pdf).

140. *Id.* at 14.

141. *The Equity in Athletics Data Analysis Cutting Tool*, U.S. DEP'T OF EDUC., <http://ope.ed.gov/athletics/GetOneInstitutionData.aspx> (under Name of Institution enter "Denison University"; follow "Denison University" hyperlink; then follow "Revenues and Expenses" hyperlink) (last visited Feb. 18, 2015).

142. SHULMAN & BOWEN, *supra* note 13, at 245.

Division III athletic departments, student fees,<sup>143</sup> fees from equipment rentals,<sup>144</sup> and fees for facility use<sup>145</sup> are utilized to generate additional revenue for the athletic department.

### 2013-2014 NCAA Distributions by Division<sup>146</sup>

	Division I	Division II	Division III
Dollars (\$MM)	\$484	\$35	\$26
Percentage of Total NCAA Budget (%)	61%	4%	3%

### 3. Facilities and Equipment Management

In yet another CEO-type function, athletic directors at all levels of NCAA competition must have the ability to foresee potential opportunity and need for facility improvements in their long-term growth strategy: “[G]eneral infrastructure costs at the Division III level [averaging] . . . 29 [percent] of total expenditures.”<sup>147</sup> The development of new, state-of-the-art, top-recruiting facilities at Division III institutions does not occur in the same scope or at the same scale as in Division I. Yet, Division III athletic departments face similar pressures in

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143. *Western Washington University Athletic Director Position Announcement*, ALDEN & ASSOC’S  
[http://www.aldenandassoc.com/images/pdf/western\\_washington\\_university\\_director\\_of\\_athletics\\_position\\_announcement.pdf](http://www.aldenandassoc.com/images/pdf/western_washington_university_director_of_athletics_position_announcement.pdf) (last visited Feb. 18, 2015).

144. *Recreational Equipment*, CASE WESTERN RESERVE UNIV.,  
<http://athletics.case.edu/facilities/equipment> (last visited Feb. 18, 2015).

145. *See Fitness and Wellness*, BRIDGEWATER STATE UNIV.,  
[http://bsubears.com/Campus\\_Recreation/Fitness/ThornburgFitCtr/Memberships](http://bsubears.com/Campus_Recreation/Fitness/ThornburgFitCtr/Memberships) (last visited Feb. 13, 2015).

146. McNeely, *supra* note 139, at 5.

147. SHULMAN & BOWEN, *supra* note 13, at 239.



their own respect. For example, “If Wesleyan (University) gets a new pool, Trinity (College) needs a new pool.”<sup>148</sup>

For Division III athletic directors, facility improvements and respective long-term plans may be required to simply update and renovate older facilities in efforts either to modernize the appearance and functionality or to minimize hazards. However, it is becoming more common for Division III institutions to make decisions similar to their Division I counterparts by approving facility improvements intended to attract top-level student-athlete talent. Successful completion of such projects requires full commitment by the upper-level administration and significant efforts by the athletic director in the form of planning and fundraising. Athletic directors must develop the vision and rationale for new construction projects, advocate them to college management, and develop a strategic partnership with the college and project donors. These huge undertakings are representative of the college’s commitment to athletics and, in large part, to specific athletic programs and initiatives at the college. For sport-specific facility construction, private donors often provide the majority of the financial support for the project. One example of this is seen in Amherst College’s Pratt Field renovation, completed in fall 2013, where significant improvements were made for football, track and field, and many fall and spring sports.<sup>149</sup> Similarly, in 2009, improvements for the football and track and field programs

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148. *Id.* at 227.

149. *Amherst College Annual Report*, 10-11, AMHERST COLL. (Jun. 30, 2012), available at <https://www.amherst.edu/media/view/449283/original/2012AmherstAnnualReport.pdf>; see also Peter Rooney, *A Makeover for Pratt Field*, AMHERST MAG. (Spring 2012), <https://www.amherst.edu/aboutamherst/magazine/issues/2012spring/colegerow/pratt>.

were made at the University of Wisconsin-LaCrosse's Roger Harring Stadium.<sup>150</sup> Institutional support levels may be enhanced when athletic directors present new facility planning focused on benefiting both student-athletes and the general student-body population (e.g., recreational and intramural athletics opportunities).<sup>151</sup>

Concurrent facility developments at Bowdoin College represent institutional distinctions between athletics-focused facilities and general student-body oriented facilities, as well as the prevalence of sustainability considerations. Bowdoin's Peter Buck Center for Health and Fitness, opened in 2009, was built with the intention to provide a fitness facility to serve the college's student body and student-athletes, as well as various campus community members, such as faculty and staff. Beyond the two-floor fitness center, the facility also houses the school's athletic department offices and campus health center. Bowdoin's Sidney J. Watson Arena, opened in the same year as the Peter Buck Center, was built with a focus on the school's men's and women's ice hockey programs.<sup>152</sup> At the time of completion, the facility "[boasted] the most energy-efficient refrigeration and dehumidification systems, seating design and home team accommodations of any Division III collegiate arena," and it was the first ever newly constructed

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150. *Veterans Memorial Field Sports Complex*, OFFICIAL WEBSITE OF WISCONSIN-LA CROSSE INTERCOLLEGIATE ATHLETICS, [http://www.uwlathletics.com/sports/2013/3/11/GEN\\_0311135615.aspx?id=149](http://www.uwlathletics.com/sports/2013/3/11/GEN_0311135615.aspx?id=149) (last visited Feb. 13, 2015).

151. *The John F. Jaeger Center for Athletics, Recreation, and Fitness*, GETTYSBURG COLL. ATHLETICS, [http://www.gettysburgsports.com/sports/2009/10/15/GEN\\_1015092906.aspx](http://www.gettysburgsports.com/sports/2009/10/15/GEN_1015092906.aspx) (last visited Feb. 13, 2015).

152. *Sidney J. Watson Arena*, BOWDOIN POLAR BEARS, <http://athletics.bowdoin.edu/information/facilities/files/watson/watson> (last visited Feb. 13, 2015).

ice arena to earn the distinguished sustainability recognition of LEED Certification.<sup>153</sup>

Contemporary facility improvements, such as those at Bowdoin, will acknowledge sustainability concerns, and many projects will aim to attain LEED Certification for the overall sustainability considerations of any new facility.<sup>154</sup> One of the first LEED Certified Gold athletic facilities in the country was opened by Haverford College with the construction of the Douglas B. Gardner '83 Integrated Athletic Center, a new athletic facility in 2005 named after a dedicated alumnus who died in the September 11 attacks. The facility includes a fitness center, athlete service centers, a basketball arena, and the college's Athletics Hall of Achievement.<sup>155</sup>

As the scope and scale of on-campus athletic facilities continue to grow across Division III campuses, athletic directors face the challenge of overseeing and delegating event scheduling across those facilities. Varsity, junior varsity, intramural, co-ed, and student-organized groups at the institution will seek varying facility time needs, and the athletic director will often delegate the necessary scheduling responsibility to a qualified athletic department employee with experience in facilities or event management.

In addition to facilities-related responsibilities, athletic directors oversee continuous improvement and updating of uniforms and equipment across all sports. The athletic director will maintain a uniform update schedule for uniform and equipment renewal for heavy-use sports like

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153. *Id.*

154. *About LEED: Overview*, U.S. GREEN BLDG. COUNCIL, <http://www.usgbc.org/about/leed> (last visited Feb. 18, 2015).

155. *Facilities*, HAVERFORD ATHLETICS, <http://www.haverfordathletics.com/information/facilities/giac> (last visited Feb. 13, 2015).

hockey and lacrosse.<sup>156</sup> Athletic directors must also stay up-to-date with improvements in equipment and uniform technology, particularly with respect to safety and performance.

#### 4. Business-Related Legal Issues

Although business aspects such as marketing and sponsorships are not as significant issues at the Division III level in comparison to Division I, athletic directors place an emphasis on building the brand and goodwill of the athletic department and institution. To build the brand, the athletic director works to maintain or improve the perception of quality student-athlete experiences, draw more students and alumni to athletic contests, and facilitate fundraising and department initiatives. With generations of athletic directors working to maintain the athletic brand of the institution, leaders of athletic departments must be aware of and responsive to any potential infringement, defamation, or misuse of their brand. In a case heard on April 9, 2014, Muhlenberg College sued Sportswear, Inc., a Seattle-based online retailer of athletic apparel, for infringing upon the athletic department's trademarks, including the Muhlenberg name and mascot. The suit alleged that Sportswear, Inc.'s website was trading on the enormous goodwill of the college.<sup>157</sup> In cases like this, the athletic director must have controls in place to intercept potential infringements or any potential threats that may damage the athletic department brand.

New York University experienced the opposite situation from Muhlenberg College in 2010. In *Fleurimond*

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156. *Springfield College Executive Search Profile: Director of Athletics*, *supra* note 41.

157. Complaint for Damages and Injunctive Relief, *Muhlenberg College v. Sportswear, Inc.*, (Pa. Dist. Ct. filed Dec. 10, 2013) (No. 5013).

v. *New York University*, the plaintiff claimed ownership of the university's "Orion" mascot. The plaintiff alleged infringement by using and selling various items bearing the Orion design without her consent. The university moved to dismiss the complaint, contending that the plaintiff did not actually own the Orion copyright. Ultimately, New York University won the case because "the District Court . . . held that whether the university was plaintiff's employer entailed factual issue inappropriate for [a] motion to dismiss. [Ultimately,] the [c]ourt found the . . . drawing was a 'work made for hire.'"<sup>158</sup>

### **E. Off-Campus Responsibilities — NCAA, Conference, Committees, Professional Organizations**

Division III athletic directors are responsible for bolstering their personal and departmental presence in communities surrounding the campus. On an individual level, athletic directors may have many off-campus responsibilities with respect to their particular conference, the NCAA, or any specific initiatives within athletics that they support. These responsibilities will come in the form of speaking engagements, panel discussions, committee meetings, conferences, or any events that require the athletic director's physical presence. In addition to their personal appearances, athletic directors will often seek off-campus opportunities for their student-athletes to become involved with in order to gain a broader overall experience (trips to New Orleans [post-Katrina], inner city volunteering, etc.).<sup>159</sup>

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158. CHAMPION, JR., *supra* note 63, at 447.

159. Gary Brown, *Lynchburg Coach Extends His Reach*, NCAA CHAMPIONS MAG. (Aug. 30, 2011), <http://www.ncaachampionmagazine.org/extras/OlsenSide.pdf> (Lynchburg (Va.) College's AD and head women's soccer coach have instituted a humanitarian program that allows Lynchburg student-

### 1. Conference Responsibilities

In many ways, conferences rely on the experience and decision-making ability of athletic directors who represent member institutions. With the combined perspectives of all athletic directors within the conference, the group can share best-practices and determine mutually beneficial arrangements that support the overall mission of the conference. By maintaining mandatory meetings, the conference allows itself to stay current and acknowledge the viewpoints of the various administrators and student-athletes the conference supports. Whether or not the conference places initiatives in gender equity, academics, religion, or any other focus, athletic directors are responsible for representing their institutions to the best of their abilities and ensuring that agreements made at the conference level support not only the student-athletes at their respective institutions, but also the student-athletes of competing institutions.<sup>160</sup> In each conference-sponsored sport, athletic directors spend significant time planning for conference-level postseason tournaments and championships. At these points in the academic year, athletic directors manage general scheduling requirements such as championship locations, timing, selections, pairings for competition, and staffing.

The NESCAC is an excellent example of a conference with significant policies in place that support the academic focus of member institutions and the conference as a whole. Specific regulations include measures to

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athletes to visit and work on projects to support communities in the Gulu District of northern Uganda).

160. *University Athletic Association: Governing Documents — Constitution Bylaws Administrative Procedures, 2006-2007*, UNIV. ATHLETIC ASS'N (2006), available at [http://www.uaa.rochester.edu/Administrative/Governing\\_Documents/UA\\_A Const\\_Bylaws\\_Admin.pdf](http://www.uaa.rochester.edu/Administrative/Governing_Documents/UA_A Const_Bylaws_Admin.pdf).

minimize regular season and postseason interference with class schedules and examinations, limitations on number of contests and starting and terminal dates for competition, and out-of-season activities limited to conditioning exercises without the involvement of coaching staff.<sup>161</sup> Each of these policies is meant to encourage an athlete to achieve a balanced perspective on the role of athletics and academics, while creating the opportunity to play multiple sports or become involved with the campus community in non-athletic ventures. Having played a role in forming conference regulations, athletic directors in the NESCAC and similar Division III conferences must be willing to adhere to such policies and also share their perspective on the system in order to build on existing conference-wide best practices.

## 2. NCAA Responsibilities

The NCAA relies directly on Division III athletic directors to provide key insights into this level of student-athlete competition because, unlike heavily-staffed Division I institutions, Division III athletic departments do not have an extensive staff to address NCAA matters. With institutional representation required to place one vote per distinct issue, college presidents will generally prefer athletic department representation at the NCAA Convention, often with the athletic director taking this responsibility.<sup>162</sup> By attending the annual NCAA Convention, athletic directors have the opportunity to gather with peers and attend presentations on current topics in Division III athletics, in addition to convening to discuss and vote on prospective NCAA regulations proposed on the legislative

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161. *About the NESCAC*, NESCAC, [http://www.nescac.com/about/mission\\_statement](http://www.nescac.com/about/mission_statement) (last visited Feb. 18, 2015).

162. NCAA DIII MANUAL, *supra* note 16, 0§ 3.02.3.1, 3.2.4.15.

agenda.<sup>163</sup> During the 2013 Division III Management Council meeting, for example, the council reviewed and approved four unique legislative issues pertaining to Division III athletics.<sup>164</sup>

A more specific NCAA responsibility held by athletic directors and other athletic department representatives is serving on the Division III Championships Committee.<sup>165</sup> The group is responsible for budgetary recommendations, supervising championship qualification and selection procedures, event management, and appointment of Division III sports committees.<sup>166</sup> Additionally, this committee holds the final authority regarding appeals related to all championship matters except selection or assignment across all Division III sports.<sup>167</sup> This group has three in-person, four-day meetings per year: one in January, one in June, and one in September, as well as monthly, one-hour conference calls throughout the year.<sup>168</sup>

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163. *Division III Management Council: Agenda*, NCAA DIVISION III (Oct. 21-22, 2013), [http://www.ncaa.org/sites/default/files/Oct13\\_DII\\_MC\\_Agenda.pdf](http://www.ncaa.org/sites/default/files/Oct13_DII_MC_Agenda.pdf); *NCAA Convention: San Diego 2014 Registration*, PLANNINGPOINT.NET (Jan. 12, 2014), <https://www.planningpoint.net/V2/Admin/Reporting/Reports/Customized/2014NCAAConvention/soe/index.cfm?Division=3>.

164. *Division III Management Council: Agenda*, *supra* note 163.

165. *Division III Championships Committee*, NCAA, [http://web1.ncaa.org/committees/committees\\_roster.jsp?CommitteeName=3CHAMPS](http://web1.ncaa.org/committees/committees_roster.jsp?CommitteeName=3CHAMPS) (last visited Feb. 18, 2015).

166. *Division III Championships Committee Duties*, NCAA, <http://www.ncaa.org/governance/committees/division-iii-championships-committee-duties> (last visited Feb. 18, 2015).

167. *Id.*

168. *Id.*



1. Committees and Special Interest Groups

Athletic directors with particular skill sets or interests may pursue off-campus responsibilities that extend beyond the conference and NCAA into various committees, associations, and organizations related to college athletics. In contrast to conference and NCAA responsibilities, these professional organizations and independent committees are not mandatory. However, participation in such groups often broadens an athletic director's depth of knowledge in the field and increases networking opportunities.

The National Association of Collegiate Athletic Directors (NACDA) is a professional association in which athletic administrators from any level of competition can become members for opportunities to network, exchange information, and advocate on behalf of the profession within the field of collegiate athletics administration.<sup>169</sup> The association provides mediums such as a national convention for current athletic administrators to disseminate empirical information developed from a career in athletics administration studies, as well as platforms for research related to supporting the conditions, salaries, and future of the profession.<sup>170</sup> The National Association of Collegiate Women Athletic Administrators (NACWAA) is also a prominent professional association in the field of college athletics. The NACWAA serves a similar purpose as NACDA, yet the association features programs "dedicated to empowering, developing and advancing the success of

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169. *Mission Statement*, NACDA, <http://www.nacda.com/nacda/nacda-missionstatement.html> (last visited Feb. 18, 2015).

170. *Id.*

women in the profession.”<sup>171</sup> As an extension of the day-to-day operations of managing an athletic department, NACWAA membership gives female athletic administrators the opportunity to make a positive impact on the athletic administrative opportunities for current and future female athletic administrators.<sup>172</sup>

Though their job function is broad in scope within their day-to-day responsibilities, it is not uncommon for athletic directors to develop specialties within their field, given their own interests or immersion in a particular subject in the field of intercollegiate athletics. Specific topics of specialty include sports rules, championships, health and safety,<sup>173</sup> women in athletics,<sup>174</sup> and athletic opportunities for minorities.<sup>175</sup> Some, although not most, athletic directors — particularly those with significant experience in a field — serve as consultants or speakers on the previous topics in various capacities outside of their institutions.

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171. *Learn About NACWAA*, NAT’L ASS’N OF COLLEGIATE WOMEN ATHLETICS ADM’RS, <http://www.nacwaa.org/about-nacwaa> (last visited Feb. 13, 2015).

172. *Id.*

173. *See, e.g., About USBIA*, U.S. BRAIN INJURY ALLIANCE, <http://usbia.org/about-usb/mission/> (last visited Feb. 13, 2015) (USBIA is a special interest group that aims to educate communities about harmful long- and short-term effects of brain injuries and advocate for safe practices to avoid brain injuries such as concussions).

174. *Say It Sister!: Title IX*, <https://www.now.org/nnt/08-95/titleix.html> (last visited Feb. 19, 2015) (a special interest group that Athletic Directors may join voluntarily).

175. *NCAA Association Wide Committees*, NCAA, <http://www.ncaa.org/governance/committees> (last visited Feb. 18, 2015).

#### **IV. The Qualifications, Demographics and Career Paths of Division III Athletic Directors**

In a 1996 study, it was found that 23.9 percent (84 out of 351) of Division III athletic directors were women, while this figure was 5.6 percent (17 out of 305) at Division I institutions. As of 2009, female athletic directors' presence has increased, as 27.5 percent (124 out of 451) of Division III athletic departments were headed by women, while at the Division I level women accounted for 9.4 percent (32 out of 341) of all athletic directors.<sup>176</sup> In addition to the relatively low percentages of female athletic directors, a 2009 NCAA study reported that 4 percent of all collegiate athletic directors are black.<sup>177</sup> Utilizing a manually collected database of information regarding the backgrounds of Division III athletic directors, we have analyzed and updated the aforementioned characteristics and developed additional statistics, as well.

For this study to arrive at the following profile metrics, background information for 451 Division III athletic directors as of the 2013-2014 academic year was compiled into a single database. Our database was assembled using manual data collection from athletic department websites, LinkedIn.com profiles, and various online news sources. This process allowed for vast coverage of the Division III athletic director landscape; however, the data is limited to information reported through online sources. Statistics may be understated due to the informational limitations for many athletic directors. For example, in our data gathering, many athletic director profiles indicated a head coaching background but did not mention experiences as a student-athlete. Intuitively, we believe many of these athletic

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176. *Principles and Practice of Sport Management*, *supra* note 10, at 178-179.

177. *Id.*

directors most likely played a sport in college. However, we did not infer any information in our research and for this reason all statistics reported in subsequent sections should be considered with the preface, “Online resources suggest that . . .” rather than as fully descriptive of the population. Major areas of information gathered in the database include demographic areas — such as age, gender, race, educational background, collegiate coaching and playing experience, and past athletic director and business experience. The following sections detail specific findings in each of these areas.

### A. Collegiate Playing Experience

Collegiate playing experience is a significant and prevalent trait of Division III athletic directors, with online resources suggesting that 58 percent (257 individuals) of the population participated in at least one intercollegiate sport in their undergraduate experience.

<b>Characteristic</b>	<b>Individuals</b>	<b>% of AD Population</b>
<b>College Athletes</b>	<b>257</b>	<b>58%</b>

Of those who played a sport in college, 28 percent (73 individuals) played more than one sport.

<b>Characteristic</b>	<b>Individuals</b>	<b>% of College Athlete Population</b>
<b>Multisport Athletes</b>	<b>73</b>	<b>28%</b>

In regards to specific sport participation, basketball (men’s or women’s) was the most prevalent college sport played by Division III athletic directors, with 27 percent (93 individuals) participating in basketball. Football and baseball also showed double-digit participation rates, at 16 percent (55 individuals) and 13 percent (45 individuals), respectively. The following table details the participation

count and rates for all sports that showed greater than 0-percent participation.

<b>Sport</b>	<b>Participant Count</b>	<b>% of Participants</b>
<b>Basketball</b>	<b>93</b>	<b>27.1%</b>
<b>Football</b>	<b>55</b>	<b>16.0%</b>
<b>Baseball</b>	<b>45</b>	<b>13.1%</b>
<b>Soccer</b>	<b>30</b>	<b>8.7%</b>
<b>Softball</b>	<b>20</b>	<b>5.8%</b>
<b>Volleyball</b>	<b>17</b>	<b>5.0%</b>
<b>Lacrosse</b>	<b>14</b>	<b>4.1%</b>
<b>Wrestling</b>	<b>12</b>	<b>3.5%</b>
<b>Ice Hockey</b>	<b>10</b>	<b>2.9%</b>
<b>Tennis</b>	<b>9</b>	<b>2.6%</b>
<b>Track and Field</b>	<b>9</b>	<b>2.6%</b>
<b>Field Hockey</b>	<b>8</b>	<b>2.3%</b>
<b>Swimming and Diving</b>	<b>8</b>	<b>2.3%</b>
<b>Cross Country</b>	<b>5</b>	<b>1.5%</b>
<b>Golf</b>	<b>3</b>	<b>0.9%</b>
<b>Rugby</b>	<b>2</b>	<b>0.6%</b>
<b>Boxing</b>	<b>1</b>	<b>0.3%</b>
<b>Skiing</b>	<b>1</b>	<b>0.3%</b>
<b>Water Polo</b>	<b>1</b>	<b>0.3%</b>

#### **B. Collegiate Coaching Experience**

Division III athletic directors have a high prevalence of head coaching backgrounds, with online resources suggesting that 67 percent (295 individuals) served as head coach in at least one collegiate sport over the course of their careers. In addition to the high rate of this characteristic, Division III athletic directors also demonstrate extensive tenure as head coaches, with the average athletic director serving in this role for 15 years. Average coaching tenure for Division III athletic directors with coaching backgrounds is skewed by those with extensive coaching backgrounds, such as Bob Corradi, the athletic director at Massachusetts Maritime Academy, who has served as the school's head

baseball coach for the past 42 years, the longest coaching tenure of any Division III athletic director serving in the 2013-2014 academic year.<sup>178</sup>

Similar to collegiate playing experience, basketball stands alone as the most prevalent sport coached by Division III athletic directors, with roughly 30 percent of athletic directors with head coaching experience serving as head basketball coaches (men's and women's). Basketball coaching sits roughly 20 percentage points above soccer, the next most prevalent sport coached, which comes in at 10 percent. The following table details the participation count and rates for all sports that showed greater than 0-percent participation.

<b>Characteristic</b>	<b>Individuals</b>	<b>% of AD Population</b>	<b>Average Years Experience</b>
<b>Head Coach</b>	295	67%	15.0

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178. *Athletics Profile for Bob Corradi*, MASS. MAR. ATHLETICS, [http://www.mmabucs.com/insideAthletics/directory/staff/Bob\\_Corradi](http://www.mmabucs.com/insideAthletics/directory/staff/Bob_Corradi) (last visited Feb. 13, 2015).

<b>Sport</b>	<b>Participant Count</b>	<b>% of Participants</b>
<b>Basketball</b>	<b>121</b>	<b>29.7%</b>
<b>Soccer</b>	<b>41</b>	<b>10.1%</b>
<b>Softball</b>	<b>37</b>	<b>9.1%</b>
<b>Baseball</b>	<b>32</b>	<b>7.9%</b>
<b>Football</b>	<b>32</b>	<b>7.9%</b>
<b>Volleyball</b>	<b>25</b>	<b>6.1%</b>
<b>Tennis</b>	<b>21</b>	<b>5.2%</b>
<b>Golf</b>	<b>19</b>	<b>4.7%</b>
<b>Lacrosse</b>	<b>14</b>	<b>3.4%</b>
<b>Ice Hockey</b>	<b>11</b>	<b>2.7%</b>
<b>Track and Field</b>	<b>11</b>	<b>2.7%</b>
<b>Wrestling</b>	<b>11</b>	<b>2.7%</b>
<b>Swimming and Diving</b>	<b>10</b>	<b>2.5%</b>
<b>Field Hockey</b>	<b>9</b>	<b>2.2%</b>
<b>Cross Country</b>	<b>7</b>	<b>1.7%</b>
<b>Skiing</b>	<b>2</b>	<b>0.5%</b>
<b>Boxing</b>	<b>1</b>	<b>0.2%</b>
<b>Cheerleading</b>	<b>1</b>	<b>0.2%</b>
<b>Squash</b>	<b>1</b>	<b>0.2%</b>
<b>Water Polo</b>	<b>1</b>	<b>0.2%</b>

### **C. Previous and Current Athletic Director Experience**

Though many Division III athletic directors have extensive professional backgrounds in varying fields, roughly 21 percent (91 individuals) served in the role of athletic director in at least one institution prior to their current roles. Of athletic directors who have served in this role at other institutions, the average previous tenure was roughly 6.4 years.

<b>Characteristic</b>	<b>Individuals</b>	<b>% of AD Population</b>	<b>Average Years Experience</b>
<b>Athletic Director Experience</b>	<b>91</b>	<b>21%</b>	<b>6.4</b>

Considering the population's overall experience at the top position in collegiate athletic departments, online resources suggest Division III athletic directors have an average of 10.2 years of total experience as athletic directors, with an average of 8.9 years coming from their 2013-2014 position. Put another way, roughly 87 percent of 2013-2014 Division III athletic directors began their careers and have remained in their existing roles. This information suggests that Division III athletic directors have a tendency to get hired as athletic directors without previous experience in the role, and once hired, they remain in their positions for extended periods of time.

Characteristic	Avg. Years in 2013-2014 Position	Avg. Years Total Experience
Current Position	8.9	10.2

#### D. Business Experience

Despite the increasing "business" functions performed by Division III athletic directors, only 10 percent (44 individuals) of the population has had some form of business experience outside of intercollegiate athletics.

#### E. Education

Characteristic	Individuals	% of AD Population
Business Experience	44	10%

Division III athletic directors generally have extensive educational backgrounds, with 96 percent (423 individuals) having earned bachelor's degrees or above, 79 percent (348 individuals) having earned master's degrees or above, and 6 percent (25 individuals) having earned

Characteristic	Individuals	% of AD Population
Bachelor's Degree	422	96%
Master's Degree	348	79%
Doctorate Degree	25	6%

doctorates.



The data also suggests that a significant portion of 2013-2014 Division III athletic directors are serving at their undergraduate alma mater, with 20 percent of the population (89 individuals) fulfilling this characteristic.

<b>Characteristic</b>	<b>Individuals</b>	<b>% of AD Population</b>
<b>Undergraduate Alumnus</b>	<b>89</b>	<b>20%</b>

Division III athletic directors share common master's degree concentrations, especially in the fields of education, management or administration, and the sports field. The percentages for these categories are: 30 percent (133 individuals), 26 percent (116 individuals), and 20 percent (89 individuals) of the population, respectively.

<b>Master's Degree Concentration</b>	<b>Individuals</b>	<b>% of AD Population</b>
<b>Education field</b>	<b>133</b>	<b>30%</b>
<b>Management or Administration</b>	<b>116</b>	<b>26%</b>
<b>Sports field</b>	<b>89</b>	<b>20%</b>
<b>Physical Education or Kinesiology</b>	<b>51</b>	<b>12%</b>
<b>Master's of Business Administration (M.B.A.)</b>	<b>32</b>	<b>7%</b>
<b>Juris Doctorate (J.D.)</b>	<b>6</b>	<b>1%</b>

A significant portion of the Division III athletic director population holds master's degrees in physical education or kinesiology (12 percent), yet this group is the least likely to have held a head coaching position (55 percent), compared to noted fields of concentration. Though the population size is relatively small, with six individuals, 100 percent of Division III athletic directors with juris doctorates, or law degrees, have served as head coaches.

<b>Master's Degree Concentration</b>	<b>Head Coach Experience</b>	<b>% of Master's Concentration</b>
<b>Education field</b>	<b>97</b>	<b>73%</b>
<b>Management or Administration</b>	<b>82</b>	<b>71%</b>
<b>Sports field</b>	<b>63</b>	<b>71%</b>
<b>Physical Education or Kinesiology</b>	<b>28</b>	<b>55%</b>
<b>Master's of Business Administration (M.B.A.)</b>	<b>18</b>	<b>56%</b>
<b>Juris Doctorate (J.D.)</b>	<b>6</b>	<b>100%</b>

## F. Age

Using college graduation year as a proxy for the point in time when individuals in the population were 22 years of age, the average age of Division III athletic directors is 51, with 1985 representing the average undergraduate graduation year. Another way to consider this information is that in 2013-2014, the average athletic director was only one year away from their 30th college reunion.

## G. Gender and Race

Characteristic	Average Age*	Avg. College Graduation Year
Age	51	1985
<i>*Assumes individuals are 22 years of age at their college graduation</i>		

The gender proportion among Division III athletic directors is 71 percent males (316 individuals) and 29 percent females (126 individuals), a 2.5:1.0 male to female

Characteristic	Individuals	% of AD Population
Female	126	29%
Male	316	71%

ratio.

From the perspective of race, Caucasian individuals hold the vast majority of Division III athletic director positions, at 93 percent (411 individuals). Races that round out the population are black, Hispanic, and Asian individuals, representing 5 percent (23 individuals), 1 percent (5 individuals), and 0.2 percent (1 individual) of the population, respectively.

<b>Characteristic</b>	<b>Individuals</b>	<b>% of AD Population</b>
<b>Caucasian</b>	<b>411</b>	<b>93%</b>
<b>Black</b>	<b>23</b>	<b>5%</b>
<b>Hispanic</b>	<b>5</b>	<b>1%</b>
<b>Asian</b>	<b>1</b>	<b>0.2%</b>

There does not seem to be a significant difference in how race effects gender, as the two racial groups with relatively large populations, Caucasian and black, share roughly the same gender proportionality as the population on the whole.

<b>Characteristic</b>	<b># Female</b>	<b># Male</b>	<b>% Female</b>	<b>% Male</b>
<b>Caucasian</b>	<b>117</b>	<b>293</b>	<b>28%</b>	<b>71%</b>
<b>Black</b>	<b>7</b>	<b>16</b>	<b>30%</b>	<b>70%</b>
<b>Hispanic</b>	<b>0</b>	<b>5</b>	<b>0%</b>	<b>100%</b>
<b>Asian</b>	<b>1</b>	<b>0</b>	<b>100%</b>	<b>0%</b>

By shifting the group of focus in the previous analysis from race to gender, the data reveals that racial proportions are relatively consistent across genders.

<b>Characteristic</b>	<b>Caucasian</b>	<b>Black</b>	<b>Hispanic</b>	<b>Asian</b>
<b>Female</b>	<b>94%</b>	<b>6%</b>	<b>0%</b>	<b>1%</b>
<b>Male</b>	<b>93%</b>	<b>5%</b>	<b>2%</b>	<b>0%</b>

Finally, after combining characteristics of race and gender, Caucasian males represent the majority of the population (66 percent), while Caucasian females represent less than half of this group, at 26 percent of the population.

Characteristic	# Female	# Male	Female % of AD Pop.	Male % of AD Pop.
Caucasian	117	293	26%	66%
Black	7	16	2%	4%
Hispanic	0	5	0%	1%
Asian	1	0	0%	0%

## V. CONCLUSION

Division III athletic directors carry a wide range of job responsibilities and continue to face new challenges as litigation alters the landscape of college sports and the expectations of industry leaders. Though multiple legal cases regarding Division III athletic departments have been cited in this article, the Division III level of college athletics does not face the same level of legal and compliance issues as Division I, and the roles of athletic directors at these two levels of collegiate athletics differ accordingly. Given the nature, mission, and structure of Division III athletics, member institutions are unlikely to be impacted by much of the ongoing litigation regarding amateurism against the NCAA, while injury-related cases will likely factor into Division III athletics management.<sup>179</sup> However, legal knowledge and awareness, as well as the ability to actively reduce and manage risk, will always be positive attributes for a Division III athletic director.

In the future, our team plans to iterate on this study to track changes in job responsibilities and the profile of Division III athletic directors. Additionally, with increased access to information of historic profiles of Division III athletic directors, we also plan to provide a longitudinal study by including athletic director profile data from 10 to 20 years in the past.

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179. Tom Farrey, *Jeffrey Kessler Files Against NCAA*, ESPN (Mar. 18, 2014), [http://espn.go.com/college-sports/story/\\_/id/10620388/anti-trust-claim-filed-jeffrey-kessler-challenges-ncaa-amateur-model](http://espn.go.com/college-sports/story/_/id/10620388/anti-trust-claim-filed-jeffrey-kessler-challenges-ncaa-amateur-model).