

Universities Shouldn't Roll Dice On Sports Betting Compliance

By **Anne Tompkins, Lex Urban and Stephen Weiss**

(February 14, 2020, 4:48 PM EST)

Legal sports betting is the latest third rail for college athletics. Therefore, college and university compliance programs must be equipped to handle how sports betting is dramatically altering the nation's sports landscape.

The U.S. Supreme Court's decision in *Murphy v. National Collegiate Athletic Association* overturned the Professional and Amateur Sports Protection Act, freeing states to legalize sports betting and further complicating the already tense relationship between betting and college athletics.

The NCAA and college athletics departments prohibit student-athletes and athletics department employees from betting on any NCAA-sponsored sport at any level. This prohibition on sports betting appears straightforward: If you are involved in college athletics, just don't bet.

Nevertheless, student-athletes and athletics department employees have bet on sports, and legalized sports betting is sweeping across America. Therefore, the NCAA and college and university compliance officers face a difficult task and need to ensure their university implements safeguards to protect the institution, student-athletes, athletic conferences and the integrity of games.

No One-Size-Fits-All Compliance Program

Although there are hallmarks of effective compliance programs — tone at the top, adequate resources and attention from management, frequent updates and revisions based on new developments, and clear and fair disciplinary guidelines — there is no off-the-rack university compliance program.

While certain NCAA rules apply nationwide, such as the blanket prohibition on sports betting, each college campus is unique. Colleges and universities may reside in a state that has or will soon usher in legalized sports betting or sits in close proximity to a casino. Moreover, the number of people to monitor varies by an institution's size.



Anne Tompkins



Lex Urban



Stephen Weiss

Accordingly, a university's compliance program must account for the fundamental aspects of good compliance and tailor its program to manage its unique risks. In making individualized determinations on a sports betting compliance strategy, colleges and universities should consider the following:

- Whether its state has legal sports gambling operations or will soon legalize sports gambling;
- The institution's history of misconduct;
- The number of athletics teams and student-athletes;
- The current compliance system's ability to identify bad actors, red flags, and teams and student-athletes most vulnerable to external influences; and
- The institution's commitment to sports betting compliance historically.

Answers to these critical questions will help guide a university's efforts to revise its compliance program and properly account for the ever-growing sports betting risk.

Make Rules Digestible and Implement Rules Education

The NCAA manual is a treatise with hundreds of pages and thousands of rules. Add in university-specific rules, and a compliance program can quickly become unmanageable. However, a compliance program with a strong emphasis on risk assessment can identify vulnerabilities and focus its attention on its highest-risk areas.

For the foreseeable future, a high-risk area will be student-athletes and athletics department employees' complying with the NCAA's and university rules on sports betting. Although student-athletes, team staff and others have always been susceptible to the multibillion dollar black market of sports betting, legal sports betting operations amplify the potential for misconduct and colleges and universities must account for that risk.

As legal sports betting becomes more commonplace and social norms around betting change, student-athletes and staff may let their guard down and the muscle-memory surrounding betting prohibitions may fade away. Sports books are opening in the same zip codes as college campuses, and legal app-based gambling allows almost anyone, from anywhere, to bet.

Accordingly, touchpoints matter: Consider regular in-person rules seminars, certifying compliance and properly documenting certifications, and partnering with betting operators to create exclusion lists of anyone prohibited from betting. Expanding compliance and educational efforts sets the tone at the top: that the institution will not tolerate violators of its sports betting policies.

Risk Appetite and Compliance Costs

Universities will face additional burdens by stepping up sports betting compliance efforts. Compliance units commonly have limited financial resources to hire additional staff dedicated to monitoring administrators' and student-athletes' betting habits, and current employees have limited time to enforce new rules and policies. Remember, compliance officials already have thousands of NCAA rules to enforce.

A pivotal question universities must ask is how far should rules against sports betting extend? Colleges and universities may opt for a sweeping policy, one that bars all students, employees, contracted third parties and even student-athletes' families from betting on school sports.

On the other hand, administrators less concerned about the tentacles of sports gambling might prohibit only student-athletes and athletics department staff from wagering on sports, creating a more manageable universe of people to monitor. Because universities must consistently enforce policies on sports betting for compliance programs to have any teeth, policies that cast a wide net are more costly.

The answer is to implement a well-designed risk assessment that ensures the institution devotes a majority of its resources to its largest vulnerabilities and periodically shifts compliance priorities to match its evolving risk profile.

Pay-to-Play Laws Will Not Reduce the Urge to Bet

Student-athletes have always been a vulnerable group because they are not paid for playing a college sport. Moreover, athletes from lower socioeconomic backgrounds and athletes participating in both revenue and nonrevenue producing sports have been prime targets of criminals looking to change the outcome of games. For decades, point shaving has been a real threat to integrity of college sports.

Recently, however, California's governor signed into law the Fair Pay to Play Act, allowing student-athletes to profit from their name, image and likeness. Soon thereafter, Florida's governor announced that he would support similar legislation in his state.

If structured appropriately to account for student-athletes across all sports, pay-to-play laws might actually reduce the temptation for college athletes to fix matches by taking money from alumni and coaches or take part in other types of corruption. But the reality is that student-athletes are unlikely to be compensated equally, and many will be unable to resist the urge to make a quick buck and improperly influence the outcome of games.

Conclusion

Betting on college sports is big business, and it is set to grow as states across the U.S. legalize sports betting. But this is not the time for universities to roll the dice on compliance programs. Universities must stay abreast of the rapidly changing sports betting environment and show a willingness to amend their compliance programs to properly account for sports betting, the latest high-risk area on college campuses.

Anne M. Tompkins is a partner, Lex Urban is special counsel and Stephen Weiss is an associate at Cadwalader Wickersham & Taft LLP.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of the firm, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.