

Independent External Review

Texas Tech University Student-Athlete Well-Being Policies, Procedures, Training, and Reporting

Conducted by Holland & Knight LLP
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TABLE OF CONTENTS

	Page
I. INTRODUCTION AND SCOPE OF REVIEW.....	1
II. METHODOLOGY	1
III. DISCUSSION AND FINDINGS.....	3
A. INSTITUTIONAL SUPPORT OF STUDENT WELL-BEING, INCLUDING STUDENT-ATHLETES	3
1. Institutional Oversight of Athletics.....	7
B. ATHLETICS LEADERSHIP AND DEPARTMENT COMMUNICATIONS	8
1. NCAA Compliance, Training, and Time Management	9
2. The Role of the Sport Administrator at Texas Tech	10
3. Department Communication: The Teamworks App.....	13
C. SETTING EXPECTATIONS AROUND STUDENT-ATHLETE WELL-BEING	13
1. Leadership, Coach and Athletics Staff Expectations	13
a. Student-Athlete Feedback: Athletics Leadership and Coaches	17
2. Department and Team Expectations for Student-Athletes.....	18
a. The <i>Student-Athlete Expectations</i> Document	18
b. Sport-Specific Team Rules and/or Expectations	19
c. The Texas Tech Student-Athlete <i>Discipline Policy</i>	21
3. Title IX in Athletics: Education and Reporting Protocols	21
a. Student-Athlete Feedback: Title IX	23
4. Diversity and Inclusion	23
a. Student-Athlete Feedback: Diversity and Inclusion	25
5. Religion and the Role of the Fellowship of Christian Athletes (FCA).....	26
a. Student-Athlete Feedback: Role of Religion	27
D. ATHLETICS-RELATED SUPPORT SERVICES RELATED TO STUDENT-ATHLETE WELL-BEING	27
1. Medical Support and Athletics Training.....	27
a. Student-Athlete Feedback: Medical and Athletics Training	29
2. Strength and Conditioning and Biofeedback Devices	29
a. Student-Athlete Feedback: Strength & Conditioning	30
b. Student-Athlete Feedback: Biofeedback Devices	30
3. Nutrition Services	31

a.	Student-Athlete Feedback: Nutrition Services.....	31
4.	Mental Health Support and Resources.....	31
a.	Student-Athlete Feedback: Mental Health Support and Resources	33
5.	Student-Athlete Health & Wellness Sports Performance Teams	33
6.	Academic Services	35
a.	Student-Athlete Feedback: Academic Services	35
7.	J.T. & Margaret Talkington Leadership Academy	35
8.	The Student-Athlete Advisory Committee (SAAC)	36
E.	TRANSPARENT, TIMELY, AND CREDIBLE REPORTING AVENUES FOR STUDENT-ATHLETES	37
1.	The RealResponse Reporting System	37
2.	End-of-Season Student-Athlete Experience Surveys.....	38
3.	Student-Athlete Exit Interviews.....	39
a.	Student-Athlete Feedback: Reporting Avenues, Training, and Response	40
b.	Student-Athlete Feedback: Well-Being Overall	41
IV.	CONCLUSION.....	43
V.	CONCRETE STEPS IMPLEMENTED DURING THE COURSE OF THIS REVIEW.....	43
VI.	ADDITIONAL RECOMMENDATIONS	45

I. Introduction and Scope of Review

In the fall of 2020, Texas Tech University (Texas Tech) retained Holland & Knight to conduct a review focused on student-athlete well-being and the policies, procedures, and training in effect related to student-athlete well-being during the 2020-2021 academic year and beyond. More specifically, Texas Tech asked Holland & Knight to review the following:

- Athletics policies, procedures, and reporting protocols relevant to issues of student-athlete well-being;
- Athletics training provided to student-athletes and staff with respect to these policies, procedures, and reporting protocols; and,
- Student-athlete and Athletics staff understanding of and confidence in Texas Tech's policies, procedures, and resolution of complaints regarding student-athlete well-being.

Janet Judge from Holland & Knight was the primary reviewer and had not been engaged to do any work for Texas Tech prior to this review.

II. Methodology

Beginning in the fall of 2020 and continuing to November 2, 2021, Holland & Knight reviewed extensive documentation by Texas Tech related to the following areas:

- Institutional control over the Texas Tech Athletics program;
- The role of the Sports Administrator;
- Student-athlete well-being generally, including relevant policies and procedures related to mental health and well-being;
- Reporting protocols for student-athletes, coaches, administration, and Athletics staff regarding issues relevant to student-athlete well-being;
- Athletics staffing and organizational reporting structure, including sport administrator assignments;
- Policies and procedures related to the use of performance technology devices and the treatment of student-athlete related data;
- Athletics-specific training related to student-athlete well-being and the treatment of student-athletes, including reporting protocols;
- Athletics and individual team rules and expectations for student-athletes, coaches, sport administrators, and related Athletics staff;

- Contract clause provisions for Athletics staff relevant to treatment of student-athletes and any mandatory reporting requirements regarding student-athlete well-being; and,
- The role of religion within organized Athletics activities at Texas Tech.

In addition to the document review, Holland & Knight interviewed members of the University's senior leadership team, including President Lawrence Schovanec, members of his executive staff, the faculty athletics representative (FAR),¹ the chair of the Athletics Council, and those in administration with responsibilities in key areas related to student well-being, including but not limited to Title IX, Student Affairs, Diversity, Equity & Inclusion, LGBTQIA, Counseling Services, and Risk Intervention & Safety Education (RISE), to understand the breadth of support services available to Texas Tech students generally, in addition to the resources provided for student-athletes within Athletics. Holland & Knight also conducted more than 80 interviews with Athletics staff, including multiple interviews with Director of Athletics Kirby Hocutt (AD Hocutt), his senior executive team, administrators, members of the finance, external relations, communications, NCAA compliance, and facilities staff, as well as all sports administrators, team doctors, head coaches, certified athletics trainers (ATCs), strength coaches, leadership development, nutrition, and academics support staff.

Holland & Knight also gathered broad input from the Texas Tech student-athlete community, including by conducting one-on-one interviews with student-athletes, including but not limited to members of the Student-Athlete Advisory Committee (SAAC), the Athletic Council, and the Black Student-Athlete Alliance (BSAA). More than 330 student-athletes (or more than 75% of the Texas Tech student-athlete population) also participated in team Zoom meetings with Holland & Knight in percentages that closely aligned with the race and gender demographics of the overall student-athlete population, with a roughly equal division among class year. AD Hocutt appeared briefly at the beginning of each team call to encourage student-athletes to provide candid feedback and to assure student-athletes that retaliation related to their participation in the review would not be tolerated. After AD Hocutt logged off, Holland & Knight assured student-athletes that their responses would be collected anonymously and shared in the aggregate only. During the team discussions, Holland & Knight entertained questions and comments, solicited feedback on a variety of topics related to student-athlete well-being, provided direct contact information, and followed-up with those student-athletes who reached out to Holland & Knight to discuss aspects of their Athletics experience privately. Holland & Knight also reviewed the 2020-2021 student-athlete experience surveys completed by more than 175 student-athletes across each of the school's 17 men's and women's teams. The feedback gathered from staff and student-athletes throughout this process provided important and diverse insights into the individual and collective Athletics experiences of student-athletes at Texas Tech.

¹ *NCAA Bylaw 6.1.3 Faculty Athletics Representative.* A member institution shall designate an individual to serve as faculty athletics representative. An individual so designated after January 12, 1989, shall be a member of the institution's faculty or an administrator who holds faculty rank and shall not hold an administrative or coaching position in the athletics department. Duties of the faculty athletics representative shall be determined by the member institution. (Adopted: 1/11/89); see also *NCAA Bylaw 4.02.2 Faculty Athletics Representative.* A faculty athletics representative is a member of an institution's faculty or administrative staff who is designated by the institution's president or chancellor or other appropriate entity to represent the institution and its faculty in the institution's relationships with the NCAA and its conference(s), if any. See Constitution 6.1.3 (Revised: 3/8/06).

III. Discussion and Findings

In preparing for this review, Holland & Knight determined through a survey of the available materials and scholarship that there does not appear to be one universally-accepted definition of student-athlete well-being and that the term is used generally in reference to a broad array of physical and mental health components.² Texas Tech's leadership, administrators, coaches, support staff, and student-athletes used different markers to assess well-being. Throughout this process, Holland & Knight focused on Texas Tech's overall commitment to student-athlete physical and mental health, in word and deed, as set forth in its setting of expectations, adoption of policies procedures and support, approaches to training, and its reporting and response framework. Holland & Knight also observed Texas Tech's willingness to adopt policies and procedures to address student well-being across campus and in athletics to respond to the evolving needs of its students, including its student-athletes.

A. Institutional Support of Student Well-Being, including Student-Athletes

On a University-wide level, Texas Tech has established general conduct expectations for students and staff designed to promote respect and to enhance overall safety and well-being among campus community members, including the *Code of Student Conduct*,³ the *Non-Discrimination and Anti-Harassment Policy and Complaint Procedure*,⁴ and the *University Sexual Misconduct and Title IX Procedures for Students*,⁵ designed to address instances of sexual misconduct in compliance with

² Holland & Knight also reviewed the NCAA's Division I Commitment to Student-athlete Well-Being:

Intercollegiate athletics programs shall be conducted in a manner designed to enhance the well-being of student-athletes who choose to participate and to prevent undue commercial or other influences that may interfere with their scholastic, athletics or related interests. The time required of student-athletes for participation in intercollegiate athletics shall be regulated to minimize interference with their academic pursuits. It is the responsibility of each member institution to establish and maintain an environment in which student-athletes' activities, in all sports, are conducted to encourage academic success and individual development and as an integral part of the educational experience. Each member institution should also provide an environment that fosters fairness, sportsmanship, safety, honesty and positive relationships between student-athletes and representatives of the institution.

NCAA Division I Manual, Commitments to the Division I Collegiate Model: The Commitment to Student-athlete Well-Being (adopted: 1/19/13, effective 8/1/13); *see also, Draft of the new NCAA Constitution, Memorandum from Robert M. Gates, NCAA Constitution Committee Chair, to the NCAA Membership* (Nov. 8, 2021) ("Intercollegiate athletics programs shall be conducted in a manner designed to protect, support and enhance the physical and mental health and safety of student-athletes. Each member institution and conference shall facilitate an environment that reinforces physical and mental health within athletics by ensuring access to appropriate resources and open engagement with respect to physical and mental health. Each institution and conference is responsible for ensuring that coaches and administrators exhibit fairness, openness and honesty in their relationship with student-athletes. Student-athletes shall not be discriminated against or disparaged because of their physical or mental health. Institutions, conferences, administrators and coaches shall protect student-athletes from physical and mental abuse, neglect and undue harm.").

³ *Id.*

⁴ *Texas Tech Non-Discrimination and Anti-Harassment Policy and Complaint Procedure*, available at <https://www.texastech.edu/offices/cfo/system-regulation-07.10-non-discrimination-anti-harassment-policy-complaint-procedure.pdf>.

⁵ *Texas Tech Title IX Policies & Procedures*, available at <https://www.depts.ttu.edu/titleix/policies-and-procedures.php>, (last visited Nov. 2, 2021). In announcing the 2020 version of the sexual misconduct policy and complaint procedure to the Texas Tech Campus Community, President Schovanec reminded University employees of their reporting obligation and that failure to report consistent with the school policy would result in termination of

the revised Title IX regulations and Texas state law. Texas Tech's Division of Diversity, Equity & Inclusion's (DDEI) efforts have been recognized as leaders in their field, having been selected as one of only 16 schools to receive *Insight into Diversity's 2021 Diversity Champions Award*, presented annually to schools in recognition of their dedication to creating diverse and inclusive campus environments.⁶ DDEI provides support and programming in the areas of race and ethnicity, gender, first-generation status, veteran status, people with disabilities, and the LGBTQIA community. Texas Tech is also listed among *Campus Pride's 2021 Best of the Best Top 40 LGBTQ-Friendly Colleges and Universities* and earned a five out of five stars on the 2021 *Campus Pride Index (CPI)*.⁷

In addition, the school has developed comprehensive orientation programming, including first-year courses designed specifically to prepare students for success at Texas Tech through the *Raider Ready* program. For example, all incoming students are required to complete an online learning module called *Voices for Change* that provides education and identifies resources available to students in the areas of identity and inclusion, alcohol and drug education, consent and sexual violence, hazing and bullying, and mental well-being.⁸ In addition, Texas Tech offers a broad network comprised of a menu of student support services, avenues to report concerns, and committees tasked with evaluating and responding to concerns raised by students seeking help or by those who raise concerns on their behalf. Through the Dean of Students Office, Texas Tech has established an online reporting portal called Raiders Report that is "dedicated to the well-being of students and the promotion of a community that cares about each of its members."⁹ This online reporting system is open to students, faculty, staff, and community members to report violations of the *Texas Tech Student Code of Conduct*, including but not limited to concerns regarding sexual



misconduct, students in crisis or distress, hazing and student organization misconduct, as well as acts of bias or discrimination. Reports are evaluated in the Dean of Student's Office to determine the appropriate referral and response, including the identification of appropriate support services. Texas Tech also has a crisis hotline available 24 hours a day, 7 days a week, 365 days a year to provide

support for students experiencing mental health crises, suicidal thoughts, sexual assault, and interpersonal violence. Students are connected immediately to a licensed professional counselor through this resource.

The campus-wide student well-being support resources include, but are not limited to the TTU Crisis Helpline, Academic Support, Office of Equal Opportunity and Title IX-related support,

employment, pursuant to Texas state law. *Memorandum to the Texas Tech University Campus Community* (December 19, 2019).

⁶ *Insight Into Diversity*, available at: <https://www.insightintodiversity.com/diversity-champions/>.

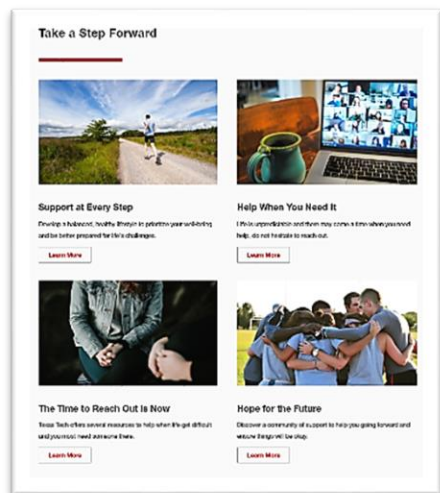
⁷ The CPI is an overall indicator of institutional commitment of LGBTQ-inclusive policy, program and practice.

⁸ A hold is placed on the accounts of those students who fail to complete the training prior to the start of classes.

⁹ *Texas Tech Office of the Dean of Students Raiders Report*, available at https://www.depts.ttu.edu/dos/report_a_concern.php (last visited Nov. 2, 2021).

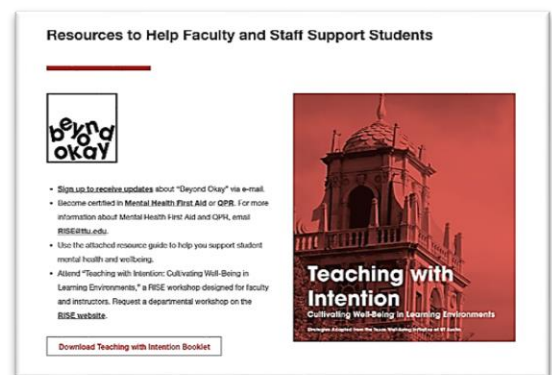
Raider Red Food Pantry,¹⁰ Raider Relief Fund,¹¹ Student Health Services,¹² Student Counseling Services,¹³ Therapy Assistance Online, Student Disability Services, Office of LGBTQIA Education and Engagement,¹⁴ the Texas Tech Police Department, as well as support through the Office for Student Rights and Resolution office, and the RISE office resources,¹⁵ including Raider Recharge (wellness coaching) and Raider Restart (substance use education), among others. With the understanding that student concerns may arise and to help ensure that students concerns do not fall through the cracks, Texas Tech has established a Behavioral Intervention Team (BIT) to address “disruptive, concerning, or unusual behavior” using a multidisciplinary approach. Over the course of the review, a representative from Athletics was added to the list of BIT liaisons. In this way, serious matters involving student-athletes may be addressed holistically and ensure that student-athletes are not isolated and will receive the cross campus attention and support they deserve and may require.

More recently, and in response to the significant mental health concerns raised by students



navigating COVID-19 and national issues of social unrest, the President’s Office celebrated the launch of a student initiated campus-wide mental health program entitled *Beyond Okay*, described more fully at ttu.edu/wellbeing/, on September 29, 2021. This Connected Care initiative “strives to bring holistic well-being to the Texas Tech student body by raising awareness, addressing barriers, sharing resources and “demystifying and reducing the stigma” associated with seeking help. The landing page for the *Beyond Okay* initiative provides the Texas Tech community with student, faculty and staff resources, including a comprehensive overview of support areas

and contact information. *Beyond Okay: Your Guide to Well-Being at Texas Tech University* collects resources to help community members “take a step forward,” with additional information set forth under four portal entries, i.e., *Support at Every Step*, *Help When You Need It*, *The Time to Reach Out is*



¹⁰ The Red Raider Food Pantry provides students with short-term access to supplemental food.

¹¹ The Raider Relief Fund provides emergency financial rewards available to students in a financial crisis.

¹² The Student Health Services provide confidential clinical services are confidential services, including primary care, urgent care, women's health, and sports medicine for students.

¹³ *Texas Tech Students of Concern Behavioral Intervention Team*, available at <https://www.depts.ttu.edu/dos/bit/bit-team-members.php> (last visited Nov. 2, 2021).

¹⁴ The Office of LGBTQIA Education & Engagement serves the Texas Tech University community through facilitation and leadership of programming and advocacy efforts aimed at strengthening the lesbian, gay, bisexual, transgender, queer, intersex, and asexual (LGBTQIA) community. The Office also serves as a resource for members of the University community in their practice of 'allyship.'

¹⁵ The Texas Tech RISE office provides comprehensive prevention education programming designed to “empower Texas Tech students to live vital, meaningful lives.”

Now, and Hope for the Future, and materials the community can download directly onto their smartphones, including tips to help manage stress. The campus-wide initiative also has a social media presence on Instagram and Twitter hosted by the school's RISE office @tturise, with publicized events and links to information related to alcohol awareness, LGBTQIA Pride, healthy relationships, self-care, and mental health. This is one example of how Texas Tech and other schools across the country are moving from a compliance to a holistic and integrated approach to student well-being.

Those responsible for the provision of student support services and initiatives outside of Athletics report that there is a collegial relationship with Athletics and identified certain cross-campus collaborative efforts. For example, following the death of George Floyd, Dr. Carol A. Summer, Chief Diversity Officer & Vice President of Diversity, Equity & Inclusion, worked with AD Hocutt, coaches and athletes to navigate and engage in meaningful and sometimes uncomfortable discussions that Athletics departments and others were having all over the country around race and social justice. With regard to sexual misconduct prevention, training, and response, Title IX Coordinator Simon stated that Athletics provides full access to her office to meet with staff and student-athletes for education sessions annually. The same is true for representatives from RISE and the Dean of Students stated that he has facilitated presentations around healthy relationships with the football program in the past.

It was noted by campus administration, however, that other campus support-area leaders have not had the opportunity to speak with Athletics staff and/or student-athletes to discuss their areas of support, including the LGBTQIA, student conduct, and student counselling support areas. In addition, Holland & Knight determined that student-athletes at Texas Tech, like their peers at many other Division I FBS schools, do not often venture outside of Athletics to seek support services, and especially in regard to those that are otherwise available to the student population within Athletics. For example, the Director of the Student Counseling Center stated that student-athletes rarely seek counseling support across campus but rather tend to seek services within Athletics regardless of whether their concerns are related to their athletics participation. This all-in-one approach to the care of student-athletes is designed to provide responsive care by those who are intimately aware of the physical and mental health concerns of student-athletes, and especially those that participate as part of high profile athletics programs. Student-athletes' tendency to seek these services solely in the athletics area, however, should be monitored closely to ensure that it does not negatively impact the ability for those across campus to contribute to the care of the student-athlete in his or her life outside of athletics.

This fall, President Schovanec and AD Hocutt sent a "welcome back" letter to all of the Texas Tech student-athletes stating that the Athletics and University leadership "will continue to do everything in our power to keep our student-athletes safe and healthy," including by prioritizing student-athlete "overall health, well-being, and personal development."¹⁶ In addition to acknowledging the impact of COVID-19 and nationwide social unrest, the letter highlighted the names and contact information for those responsible for student-athlete well-being within Athletics only, including those in the areas of sports medicine, psychological health and performance, nutrition, strength and conditioning, academic advising, and personal and leadership development.

¹⁶ 2021-22 *Welcome back Red Raiders!* Letter to Texas Tech student-athletes from President Schovanec and AD Hocutt (undated).

1. Institutional Oversight of Athletics

Texas Tech is a founding member of the Big 12 Conference (Big 12). Located in Lubbock, Texas, the University sponsors 17 varsity men's and women's sport teams at the NCAA Division I Football Bowl Subdivision (FBS) level. By many objective sport measures, Texas Tech's Athletics department ranks among the most successful programs in the country, with teams and individual student-athletes competing at the very highest levels for national and conference success. President Schovanec currently serves as the presidential chair of the Big 12 Conference. As part of his Athletics oversight responsibilities, he has implemented an NCAA institutional control compliance framework.¹⁷ Consistent with preferred practices, the Athletics Director reports directly to the President and serves as a member of the President's Administrative Cabinet. Both President Schovanec and AD Hocutt shared that they meet weekly to discuss Athletics matters, including in cabinet meetings and in smaller groups or one-on-one settings. Through these interactions, AD Hocutt ensures that the President and other key leaders at the institution are apprised of day-to-day developments within Athletics, including around issues of student-athlete well-being. Other members of the President's Administrative Cabinet confirmed that AD Hocutt regularly attends and actively participates in meetings and is a respected member of the University's senior leadership team. Each year, President Schovanec and AD Hocutt submit NCAA attestations certifying that the Athletics staff are aware of their obligation and personal responsibility to act ethically and follow all NCAA rules and policies. President Schovanec, AD Hocutt, and Title IX Coordinator Simon also submit annual attestations to the NCAA certifying that the school is in compliance with the NCAA Board of Governor's Policy on Sexual Violence.

In his oversight capacity, President Schovanec created an Athletics Council at Texas Tech to advise the President "on matters relating to the development and supervision of intercollegiate athletic programs."¹⁸ The Athletic Council is comprised of 11 voting members, including six faculty and three non-faculty appointees, and one representative each from the alumni/alumnae population and the Student Government Association. A number of *Ex Officio* (non-voting due to their Athletics' affiliation) members also attend meetings, including the FAR,¹⁹ a student-athlete, and invited members of the Athletics administration. President Schovanec also attends Council meetings on occasion. The Council meets at least four times a year to review or recommend "policies, rules, and regulations as are necessary for the promotion and oversight of the University's intercollegiate Athletics program [including but not limited to] Academic Integrity, NCAA Compliance, Fiscal Integrity, and student-athlete Health and Well-Being."²⁰

Council meeting agendas show that Athletics personnel regularly presented to the group on a broad range of student-athlete-focused topics, including but not limited to medical and mental health,

¹⁷ According to the NCAA, "Institutional control refers to the efforts institutions make to comply with NCAA legislation and to detect and investigate violations that do occur. NCAA member institutions are obligated to maintain appropriate levels of institutional control." *See Frequently Asked Questions, NCAA Enforcement Process*, available at <https://www.ncaa.org/enforcement/enforcement-process-charging>.

¹⁸ *Texas Tech University Role of the Faculty Athletics Representative*.

¹⁹ Per 1A FAR, the organization of NCAA Division I FBS FARs, a FAR typically "serves as a liaison to the athletics department" and "is an advocate for the appropriate balance and effective interaction between an institution's academic mission and its intercollegiate athletics program." Per NCAA rules, FARs must be a member of the institution's faculty and "may not hold administrative or coaching position in the athletics department." *About FARs*, available at <https://oneafar.org/>.

²⁰ *Texas Tech University Athletics Council Duties and Responsibilities* (undated).

COVID protocols, diversity and inclusion, NCAA compliance, coach-, staff-, and student-athlete expectations, Title IX, and Athletics budget allocations. Council members stated that they felt that Athletics has prioritized student well-being and mental health initiatives and that student-athletes appear to have a broad range of people to speak with both inside and outside of the department, including when they may want to raise concerns around student-athlete well-being. Holland & Knight learned that the Council's meeting agendas traditionally had been set by athletics but that the current Chair intended to take on more of an active role in framing the groups discussions moving forward. In August 2021, the Council added student-athlete experience surveys to its list of review items.

When hired, President Schovanec continued the appointment of Texas Tech Law Professor Brian Shannon as the school's FAR to provide oversight and advice in the administration of the Athletics department. Both President Schovanec and FAR Shannon independently stated that they meet regularly to discuss Athletics-related matters, including those pertinent to issues of student-athlete well-being, and have at least three meetings a year with the President, the FAR, and the Director of NCAA Compliance. In addition to his NCAA compliance oversight areas of responsibility, Professor Shannon shared that he reviews the general staff and student expectations annually, speaks with the Athletics department at its orientation meetings, reports out to the faculty on Athletics-related matters, and attends all Athletics Council, Athletics executive staff, and head coach meetings. The FAR stated that he has not participated in student exit interviews in the past, although he noted that he would like to participate in those interviews. He currently reviews the student-athlete RealResponse online submissions through a system first implemented during the fall of 2020 and discussed in more detail later in this report. Professor Shannon also reviews the department's NCAA policies and procedures with the compliance office annually and presents substantive proposed revisions to President Schovanec for approval. Holland & Knight found that Professor Shannon is well respected within the FAR community and is fully engaged in his Athletics responsibilities.

As detailed in Texas Tech's NCAA compliance policy,²¹ President Schovanec, FAR Shannon, and AD Hocutt communicate to the Athletics department as a whole their compliance expectations and the potential consequences of non-compliance on an annual basis. President Schovanec, AD Hocutt, and Title IX Coordinator Simon attest annually that athletics staff and student-athletes have been trained on the school's Title IX policies, procedures, reporting, and related support services in compliance with the NCAA's Board of Governor's Policy on Campus Sexual Violence. In interviews with Holland & Knight, those responsible for Title IX compliance and student conduct also stated that they have not experienced inappropriate involvement by any member of the Athletics staff in any case that may involve student-athletes and/or student-athlete well-being.

B. Athletics Leadership and Department Communications

AD Hocutt and his team of executive staff lead an Athletics department comprised of 17 teams, 52 coaches, and more than 180 support area personnel supporting more than 430 male and female student-athletes. The Athletics program's stated mission is "to educate, serve, and grow fearless

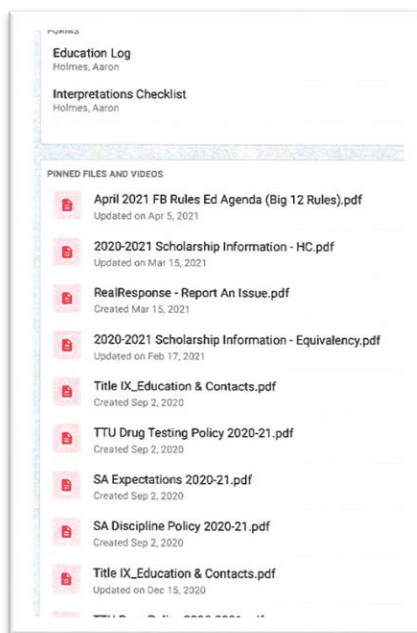
²¹ *Texas Tech Operating Procedures (OP) 10.05: Intercollegiate Athletics* (June 22, 2021).

champions.”²² In managing the day-to-day operation of the Red Raiders program, AD Hocutt stated that decisions are guided by four core principles: (1) Do the Right Thing; (2) Win Every Day; (3) Success is Built on Quality Relationships; and (4) Respect the Past and Invent the Future.²³ AD Hocutt holds regular executive staff, head coach, and department-wide meetings to discuss NCAA, conference, school, and Athletics business. Meetings often touch on many aspects of student-athlete support, including in the areas of academic support, sports medicine and training, mental health, nutrition, strength and conditioning, and leadership. Attendance at monthly head coach meetings is required. One coach described them as “full participation meetings. All the head coaches are in the room.” Other coaches agreed that there are active discussions at these meetings, including around the topic of student-athlete physical and mental health.

1. NCAA Compliance, Training, and Time Management

While not the primary focus of this review, ensuring that Athletics staff and student-athletes fully understand the complex NCAA rules compliance requirements, including the nuances of student-athlete eligibility, countable hour limitations, and time management plans are essential components of an Athletics department’s overall commitment to student-athlete well-being. Holland & Knight found that Texas Tech has a robust, proactive, and education-focused NCAA compliance program. In addition to annual formal rules compliance meetings and NCAA-required paperwork submissions, the Texas Tech’s NCAA compliance office prepares a series of rules

compliance education materials for student-athletes and staff throughout the year and meets with each sport team at least three times per semester to discuss NCAA and Big 12 rules, including developments and interpretations. Holland & Knight reviewed sports-specific training topics tracked through the department-wide Teamworks application and found that the compliance office provided between 9 and 17 separate education sessions per team, beginning when some teams arrive on campus in June and continuing through the beginning of May the following year.



The FAR and Compliance Office also stated that they meet with incoming athletes on campus over the summer and with other sports as they arrive closer to the first day of the fall semester to discuss rules compliance and to ensure all paperwork is completed appropriately. Texas Tech reported that its overall compliance program is reviewed at least once every four years by an external entity in keeping with the NCAA rules and Big 12 conference expectations, including around maximum hour

limitations, countable hour activity logs, and time management. Per the Athletics *Time Management Policy*, coaches are required to ensure that student-athletes have adequate notice of their schedule and any changes to be able to plan accordingly. More specifically, the policy states

²² *Texas Tech Athletics Mission Statement*, available at <https://texastech.com/sports/2016/6/8/trads-text-mission-html.aspx> (last visited November 2, 2021).

²³ *Texas Tech Athletics Guiding Principles*, available at <https://texastech.com/sports/2016/6/8/trads-text-mission-html.aspx> (last visited November 2, 2021).

that “weekly schedule information for all countable and required [Athletics] activities, and off days, will be provided to student-athletes” by the preceding Sunday and that all notification of non-emergency or weather-related schedule changes must be provided to student-athletes “at least 24-hours in advance” of the change. Compliance office staff stated that Athletics staff are encouraged to seek interpretative guidance proactively and to report all NCAA violations promptly. In interviews, student-athletes and staff spoke knowledgeably about NCAA rules compliance, including hour limitations and head coach responsibility, and stated that the compliance office and its training programs are a particular strength of the Texas Tech program. Newly hired staff and coaches confirmed that they are required to attend NCAA rules compliance education.

2. The Role of the Sport Administrator at Texas Tech

At Texas Tech, certain members of the Athletics senior staff serve as sport administrators in addition to their responsibility for overseeing multiple units within Athletics. AD Hocutt stated that he believes that current sport administrator assignments will stay in place for the foreseeable future.²⁴ At Texas Tech, the primary role of the sport administrator is to serve as the point of contact between the individual sport teams and the senior administration.

There is no industry standard for the sport oversight role, the name of the designation, or the number of sports assigned per individual. The designation and the responsibilities associated with it vary from school to school. At some schools, sport supervision is the primary duty assigned to those charged with overseeing athletics programs. For this reason, they have more time to be intimately involved in the day-to-day workings of their sport programs, attend practices and home competitions regularly, travel with teams to away events, and establish a presence with the coaching staff and student-athletes alike on their assigned teams. At other schools, sport oversight is assigned to certain administrators in addition to their primary area of responsibility, e.g., finance, medical, operations. Accordingly, those sport administrators may be less visible to their assigned teams, primarily serving as the first point of contact for coaches with the senior administration and may not spend much informal time around the team or with the student-athletes. Not surprisingly, the former example of a sport administrator is more attuned to their assigned teams’ culture and student-athlete welfare concerns, while student-athletes on teams assigned to the latter may not know who their sport administrator is or may understandably view this person as more closely associated with their coaches as both supervisor and advocate.

Although most programs fall somewhere in the middle of this spectrum, students and staff at Texas Tech reported that in prior years sport administrators had approached the role more in keeping with the latter model and less with the former. Two administrators shared that some Texas Tech

²⁴ Both AD Hocutt and Deputy AD Tony Hernandez are the primary contacts for football and men’s basketball. Recently hired Executive Senior Associate AD and SWA Stuart is the point person for women’s basketball, women’s soccer, and softball. In addition to his duties as the senior financial officer for the department, Senior Associate AD and Athletics Chief Financial Officer Jon Boutros oversees the men’s and women’s cross country, indoor track and field and outdoor track and field teams. Newly hired to lead academics support, Senior Associate AD Deedee Brown-Campbell works with men’s golf. Senior Associate AD for Strategic Engagement Amy Heard is the sport administrator for baseball and women’s golf. Men’s tennis works with Mike Ryan, who is the Senior Associate AD for Facilities and Event Operations. The only non-executive staff member, Associate AD for Event Operations Sandy Collins works with women’s volleyball and men’s tennis.

players had “stated that they felt their sport administrator was more aligned with/close to the coach” and that they were “uncomfortable” going to that person to discuss student-athlete concerns for that reason. Another described the sport administrator role as “a fine line” because “you need to be visible with the coach” which may understandably lead players to think that if they come to the sport administrator with team-specific concerns, that their sport administrator would share their concerns and identity with the coach, which in turn “could affect their playing time.” On the other hand, according to the same sport administrator, there is nothing to stop players from speaking with whomever in the department about their concerns and players should be encouraged to speak with anyone in the department they are comfortable approaching. Another sport administrator agreed and noted that “student-athletes have been encouraged to report concerns to assistant coaches, and captains, and we rely heavily on trainers, academic advisors” because these individuals are much more involved in the lives of the student-athletes. “I’m not sure that student-athletes would come to me,” stated a third. Both staff and student-athletes agreed that those who serve in these roles at Texas Tech are not likely to have the most visibility with student-athletes due to their administrative duties. Unlike those who work with students on a day-to-day basis, the senior executive team generally does not have the bandwidth to engage with student-athletes informally and with enough regularity to develop the same sorts of relationships that student-athletes may have with the sports psychologist, or with their academic advisor, ATC, strength and conditioning coach, nutritionist, assistant coach or director of operations.

AD Hocutt did not disagree. In his view, sport administrators “are there to be resources for the sport,” and for that reason, they “generally will be more in touch with the coach than the student-athlete.” Head coaches echoed this sentiment: “The role of sports administrator? Management from above – scheduling, budgetary or compliance,” said one. “I feel like the role of sports administrator is someone we can bounce things off of and get support,” said another. AD Hocutt noted that the department was continuing to define the appropriate scope of the position and the broader question of “How do we grow sport administrators?” He stated that “the work is ongoing” and that the task of defining the proper duties assigned to this role is now in the hands of Executive Sr. Assoc. AD and SWA Brandi Stuart. Among her responsibilities, according to AD Hocutt, is to help define the appropriate duties of the sport administrator at Texas Tech and to eventually update the *Sport Administrator Best Practices Guide* started by a former member of his executive staff, based in part on a guide published by Lead1, and as adapted to the Texas Tech program.²⁵

Stuart stated that her initial focus is to address the role of the sport administrator in action before putting a guide in place. As to the most recent version of the Guide provided to Holland & Knight at the beginning of the fall 2021 school year, it remains an incomplete draft outline of “Focus Areas” and “Best Practices” that were mostly in place prior to Ex. Assoc. AD/SWA Stuart’s arrival, including, e.g., budget, academics, competition and scheduling, compliance, and risk management, and does not accurately reflect the current policies and procedures in place around student-athlete well-being. Most relevant for purposes of this review are the student-athlete experience, sports medicine and sports performance, and head coach/program evaluation sections. The student-athlete experience section lists recruiting, name, image and likeness (NIL), financial aid, health and safety, and access to student assistance funding as areas of focus. The phrase “(Student-Athlete Health and Wellness??)” [sic] appears next to “Sports Medicine & Sports

²⁵ “*Lead1 Association Guide to Sport Supervision*,” (June 2019), available at <https://lead1association.com/wp-content/uploads/2019/06/LEAD1-GUIDE-TO-SPORT-SUPERVISION.pdf>.

Performance” with focus areas that include independent medical care, return to play, mental health, emergency response and action plans, strength and conditioning activities, nutrition, drug test policy, COVID-19 protocols, and outside consultants and team-building requests. No best practices are listed under either section. In the section titled “Head Coach/Program Evaluation,” sport administrators are directed to focus on athletic and academic results, review of student-athletes, coaches and staff, support units, academic and athletic goals for the next season, and contract discussions. There are no best practices listed and no mention of student-athlete end-of-season surveys, or student-athlete well-being other than the phrase highlighted above. The other relevant topic of “mistreatment allegations” is included as an area of focus in the “risk management” section.

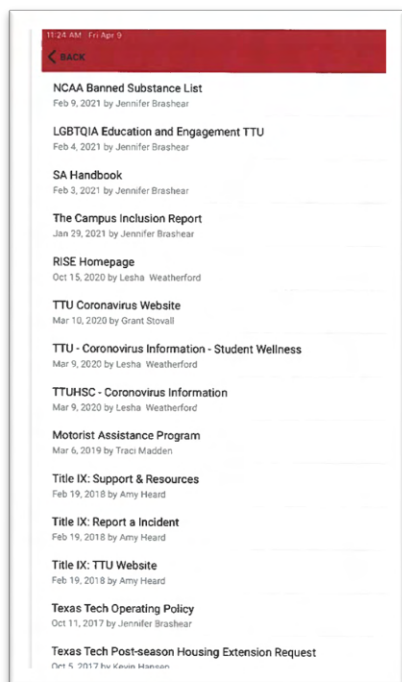
Notwithstanding the guide’s draft language, Holland & Knight confirmed that the role of the sport administrator is evolving in a positive way at Texas Tech, with a more pronounced focus on student-athlete well-being. Starting in 2021, sport administrator meeting agendas reflect a structured approach to the meetings, with standing agenda items that include a discussion of RealResponse reporting, and attention to the newly developed *Texas Tech Student-Athlete Experience Survey* policy, including the sport administrator pre- and post-survey responsibilities. Under the policy finalized in 2021, sport administrators are now responsible for informing and educating coaches and student-athletes about the end-of-season surveys and for encouraging students to participate before surveys are distributed. They are also directed to review the results, respond to concerns where appropriate, and to attend meetings with AD Hocutt and their assigned coaches to discuss the survey reports afterwards.²⁶

Still, even with the improvements put in place, it is unlikely that those who serve in the sport administrator role in particular at Texas Tech will be viewed by student-athletes as the primary point of contact to report program treatment concerns, and especially those related to their coaches. This does not suggest that sport administrators are failing in their duties. Rather, it is a recognition that student-athletes may seek support in a variety of spaces, including from members of their coaching staff and the administration more broadly. Sport administrators at Texas Tech have limited ability to spend time with student-athletes on their teams in a way that would likely build that kind of trust. Most in the role stated that they are not able to attend practices and home competitions regularly for all of their sports, eat meals with students on campus, or travel with and alongside their teams due to their primary areas of responsibility. Finally, and perhaps even more challenging, is the fact that sport administrators also work in collaboration with head coaches to determine student-athlete discipline as detailed in the *Texas Tech Athletics Student-Athlete Discipline Policy*. As discussed below, student-athletes are trained on and must sign this policy annually.

²⁶ *Texas Tech Sport Administrator Meeting Agenda* (May 11, 2021).

3. Department Communication: The Teamworks App

Texas Tech Athletics provides its staff and student with direct access to Teamworks, an online information platform designed to facilitate communications among members of the Athletics department. Used by more than 250 NCAA Division I Athletics departments (according to the company's website), this application is Texas Tech Athletics' primary communication and



resource management tool. Staff and student-athletes have access to University, Athletics, team, and athlete-specific information through their phone or computer. In this way, they can access their sport calendars (meetings, lifts, practice, competition, and travel), COVID-19-related information and updates, NCAA permissible hour logs, sports specific expectations and team communications, among other important information. Over the course of this review, Athletics expanded the resources available to student-athletes through this tool. The application now provides direct access to Athletics-specific and campus-wide resources related to student-athletes well-being support and reporting, including links to the Title IX resource page, RealResponse, Texas Tech Clinical and Sport Psychology, campus LGBTQIA education and engagement, as well as links to report incidents of bias, including discrimination, harassment, abuse, bullying, stereotyping, hostility, marginalization, or other forms of mistreatment based on their identity or membership in a particular group or other incidents or concerns that impact campus culture, and the RISE homepage. In this way, Texas Tech Athletics has leveraged an already familiar smartphone

application to provide its student-athletes with the support and tools they may need and the ability to explore and access them privately. Texas Tech's NCAA compliance office shared the fall training team calendar to show that Sr. Assoc. AD Brashear met with every team either in August or September to provide training on the Teamworks files, the Teamworks web links and resources, and RealResponse real time reporting.

C. Setting Expectations around Student-Athlete Well-being

1. Leadership, Coach and Athletics Staff Expectations

Department-wide behavioral expectations for all Athletics staff, including administration, coaches, and support staff are broadly informed by the Athletics mission statement "to educate, serve and grow fearless champions," and on a daily basis by the department's core principles, including "Do the Right Thing," and "Success is Built on Quality Relationships." Additional coach and staff expectations are formally detailed in two written documents: *Texas Tech Department of Athletics Statement of Expectations for Staff (Staff Expectations)* and *Texas Tech Intercollegiate Athletics Responsibilities and Expectations of Coaches (Coach Expectations)*. Expectations for Athletics employees are one of the five agenda items AD Hocutt addresses at the fall Athletics all-staff meeting attended by President Schovanec. President Schovanec and FAR Shannon typically open these meetings by addressing their NCAA Compliance and University expectations. During this meeting, coaches and staff receive training on the following topics:

- *Title IX policy updates and reporting protocols, including confidential reporting options, Title IX contact information, and Campus Advocacy Response Education (CARE) Coordinators;*
- *Texas State law mandatory reporting requirements;*
- *General Non-Discrimination Policy and Prohibitions, including discrimination or harassment of students based on sex, race, national origin, religion, age, disability, protected veteran status, sexual orientation, and gender identity;*
- *Sports medicine; and*
- *Coach and staff expectations distributed for signature to all department personnel through the Teamworks application.*

In individual meetings with AD Hocutt, FAR Shannon, NCAA Compliance Officer Brashear, and their assigned sport administrator at the start of the year, the coaching staff of each of the men's and women's teams review the *Coach Expectations* document. According to Compliance Director Brashear, NCAA compliance topics are also discussed at this time, including but not limited to the NCAA's Time Management Policy requirements,²⁷ and the NCAA's expectation that head coaches establish an overall culture of compliance within their program.²⁸

As of the date of this report, the *Coaches Expectations* document includes the follow expectations set forth under the heading of "Student-Athlete Well-Being":

- *Promote a culture of physical and mental health by recognizing the Sports Medicine Staff's (Medical Director, Team Physician, Athletic Trainer) unchallengeable authority to make all medical decisions in regard to a [student-athlete's] participation and return-to-play decisions. Refrain from initiating, circumventing, or interfering with a [student-athlete's] medical care (including mental health care).*
- *Create expectations within [their] program regarding the conduct of current student-athletes. Conduct reasonable due diligence toward identifying [prospective student-athlete] misconduct issues while recruiting.*
- *Uphold and endorse the principles of leadership and personal development by utilizing the University and Athletic Department's resources within the areas of career, character, leadership and wellness.*
- *Establish athletic performance expectations from everyone in the program that focus on consistent improvement, with goals of competing for championships and establishing/maintaining national relevancy.²⁹*

²⁷ For more information on the NCAA's Time Management Policy, see http://fs.ncaa.org/Docs/eligibility_center/ECMIP/Time_Demands.pdf.

²⁸ Per *NCAA Bylaw 11.1.1.1*, head coaches are "presumed to be responsible for the actions of all institutional staff members who report directly or indirectly to the head coach." Under this rule, head coaches are expected to "promote an atmosphere of compliance within his or her program and shall monitor the activities of all institutional staff members involved in the program who report, directly or indirectly, to the coach."

²⁹ *2021-2022 Responsibilities and Expectations of Coaches*, Texas Tech University Intercollegiate Athletics, (revised 5/21/2021).

In addition to these behavioral expectations, AD Hocutt announced in a May 2021 head coach meeting that new “mandatory reporting requirements for student well-being” would now apply to all coaches and sports-specific staff. The new requirements were set forth in a memorandum³⁰ distributed to coaches and sports-specific staff following the meeting and have since been incorporated into the 2020-2021 *Coach Expectations* document.³¹ Pursuant to the new requirements that were also set forth in a memorandum sent by AD Hocutt to all coaches and sports-specific staff after the meeting, these have since been incorporated into the 2021-2022 *Coach Expectations* document. Under the new guidelines, all coaches and sport-specific staff are required to “immediately report any issues regarding student well-being, including those involving serious physical or mental health concerns or allegations of bullying, hazing, harassment, or racist behavior within Athletics to Raiders Report.” This new reporting mandate represents a significant change in Athletics policy. As discussed earlier, reports made through the Raiders Report online portal are reviewed initially by staff within the Office of the Dean of Students and then are distributed to the relevant support areas for follow up.³²

In his May 2021 memorandum, AD Hocutt advised coaches and sports-specific staff that “if in doubt, report,” and reminded them of their existing obligations to also direct reports related to Title IX and sexual misconduct and Clery Act crimes across campus as follows:

You are required by Texas state law to notify the Office of Student Civil Rights & Sexual Misconduct (formerly known as the Title IX Office) promptly upon receiving information about any possible sexual harassment, sexual misconduct, stalking or sexual domestic violence (online – www.titleix.texas-tech.edu / in-person – Student Union Building Suite 232-E, 806-834-1949).

You are a campus security advisor [sic] (CSA)³³ and required by federal law to report allegations of Clery Act crimes to TTPD (Clery Act crimes include homicide, manslaughter, sexual assault, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, arson, hate crimes, domestic violence, dating violence, stalking, and arrests and referrals for disciplinary action for violations of weapons, drug, and liquor laws). Non-emergency reports can be made to TTPD at 806-742-3931, or in person at 413 Flint Avenue.

In September 2021, AD Hocutt sent another memorandum to all Head Coaches and copying all executive staff and sport administrators, stating that the mandatory reporting rules quoted above apply to all coaches and Athletics staff (i.e., not just sport-specific staff). In the memorandum, AD Hocutt told all head coaches “I cannot emphasize enough the importance of properly reporting any issues that may arise” and noted that coaches should “give [their] careful consideration and

³⁰ *Mandatory Reporting Requirements, Memo to Coaches and Sport-Specific Staff from AD Hocutt*, dated May 2021 (Referencing a discussion had in a head coaches meeting on May 11, 2021.).

³¹ AD Hocutt explained that the term “sports-specific staff” includes those Athletics staff members who are associated with one sport, e.g., a director of operation.

³² https://www.depts.texas-tech.edu/dos/report_a_concern.php, last visited 5.24.2021.

³³ CSA is an acronym for the Campus Security Authorities, used to describe those with mandated reporting obligations under the Clery Act.

attention” to the mandatory reporting obligations. Like the earlier memorandum, AD Hocutt directed coaches “If in doubt, report.”

During the review, Texas Tech informed Holland & Knight that they had begun to incorporate enhanced behavioral and reporting expectations relevant to student-athlete well-being into all new coaching contracts and contract renewals, beginning in the fall of 2020. In addition to existing requirements that all coaches follow applicable University policies and procedures, state and federal law, including the mandatory reporting of prohibited sexual harassment, sexual assault, sexual exploitation, intimate partner violence, and stalking, Texas Tech contracts now state that:

*Coach shall also immediately report to the Director of Intercollegiate Athletics or the Faculty Athletic Representative any significant issues regarding student well-being, including those involving serious physical or mental health concerns or allegation of bullying, harassment, or racist behavior within the athletic program.*³⁴

At the same time, Texas Tech also added the following behavioral expectations to be incorporated into all new and renewed coaching contracts:

Coach, in the performance of her duties, shall conduct herself at all times in a manner consistent with her position as an instructor of students and as a University ambassador, representative, and key employee. Coach shall support the encouragement and support of student-athletes on the Team regarding personal, physical, and intellectual development, activities, and achievements, including an emphasis on each student-athlete’s completion of an undergraduate degree program. Coach shall engage in (and attempt to assure every coach under [her] supervision is engaging in) fair, safe, and responsible treatment of student-athletes on the Team and attempt to avoid behavior, actions or activities that could, in any way, jeopardize a student-athlete’s health, safety, welfare, or that could otherwise cause harm or risk causing harm to a student-athlete.

According to the new provisions, failure to abide by the reporting or the behavioral expectations, may result in disciplinary action up to and including termination of employment for cause.

The student-athletes’ well-being provisions set forth above have not yet been incorporated into the current version of the *Staff Expectations* document.³⁵ Instead, staff are directed to “be approachable, create a collaborative and respectful environment that promotes [and values] diversity, engagement, teamwork, and inclusion and eliminates exclusion.” Staff further are expected to “act ethically” and to “build good relationships, treat others the way you want to be treated, and maintain a positive attitude.” Aside from obligations to report instances of sexual misconduct consistent with state law and school policy, the mention of mandatory reporting through Raiders Report in the September 2021 memorandum to head coaches from AD Hocutt, and general reporting requirements in the rules compliance section, however, the *Staff*

³⁴ S. Strinz-Ward *Employment Contract* (2020), at 4-5.

³⁵ Available at [Expectations Staff \(PDF\) - Texas Tech Red Raiders](#), last visited Nov. 2, 2021.

Expectations document does not currently direct Athletics staff to report concerns around student well-being within Athletics to Raiders Report or anywhere else.

Every coach and Athletics staff member interviewed confirmed to Holland & Knight that AD Hocutt discusses the *Coach Expectations* and *Staff Expectations* documents regularly in meetings and that they are required to review and sign the version of the expectations that apply to them. A staff member explained, “We all sign. We discuss [the expectations] in the department meetings. That’s when [AD Hocutt] addresses these.” It’s “pretty clear,” according to one coach, “basically, we are expected to do the right thing, win, treat people well.” While these documents are well known to coaches and Athletics staff, it became clear during this review that the Texas Tech student-athletes were unaware that coaches and staff agree to be bound by certain written expectations each year. To address this information gap, AD Hocutt posted links to the two expectation documents on the department’s public website in two places: above the Athletics staff directory³⁶ and on the Intercollegiate Athletics Strategic Plan page directly below the department’s Mission Statement.³⁷

Finally, Athletics staff confirmed that those responsible for student support areas review the *Staff Expectations* in meetings with their group. In addition, some support staff also are required to agree to area-specific guidelines. For example the strength and conditioning staff sign off on expectations contained in the *Strength & Conditioning Policy, Procedure, Intern Manual*, including provisions that staff and interns are expected to “[d]evelop a positive relationship with the student-athletes, while maintaining a professional distance. This group also has developed a *Texas Tech Strength and Conditioning Mission Statement on Student-Athlete Health, Safety and Wellness* that provides that members of this team “prioritizes overall student-athlete welfare, safety, mental, spiritual and physical development while at the same time fostering a demanding and competitive training environment. This environment is focused on creating a resilient, robust, and adaptable athlete.”

a. Student-Athlete Feedback: Athletics Leadership and Coaches

Student-athletes provided feedback to Holland & Knight in a variety of ways. When asked on team calls whether student-athletes feel like the Texas Tech Athletics administration cares about the well-being of student-athletes, 85% percent of the more than 325 student-athletes that participated indicated that they felt that leadership often or always cares about their well-being, with 15% reporting sometimes, and 1% reporting never. In individual discussions with student-athletes, this was an area where they stated that they had seen substantial positive growth. As one student remarked, AD Hocutt “has developed relationships with students” in part “as a result of some of the upheaval” that followed the investigations of two women’s teams the prior year. Another student-athlete stated, “I feel like [AD Hocutt] is there for us and cares about the student-athletes as a whole. My personal experience is that he cares.” In their end-of-season surveys, student-athletes rated their overall athletics experience as a 4.2 out of a possible 5.0, based on team average scores.

When asked whether they felt that their coaches were invested in their physical well-being, 85% of student-athletes overall reported that they felt their coaching staff is always or often invested in their physical well-being, while 12% reported that they feel that they are invested sometimes, and

³⁶ <https://texastech.com/staff-directory>.

³⁷ <https://texastech.com/sports/2016/6/8/trads-text-mission-html.aspx>.

3% reporting that they feel like their coaches are never invested. When considering the investment of coaches in their mental well-being, 79% of the student-athletes who participated on the team calls stated that they feel that their coaches are always or often invested in their mental well-being. In comparison, the NCAA's 2020 summary of the *NCAA Goals Study of the Student-Athlete Experience* stated that 63% of female and 70% of male student-athletes responded that they agree or strongly agree that their coaches care about their mental well-being.³⁸ Of the remaining Texas Tech student-athletes, 16% stated they feel that their coaches are sometimes invested in their mental well-being, while 5% report that they never feel their coaching staff is invested in their mental health. (Please note that student-athlete feedback relative to support areas are included after the discussion of each support group later in this report.) When evaluating their head coaches and coaching staff overall in their end-of-season surveys, head coaches earned a team average rating of 4.1 out of a possible 5.0 overall, with the men's and women's tennis teams scoring the highest marks, and the football and the two women's teams that recently experienced turnover following internal investigations, women's basketball and softball, receiving the lowest, but still above average marks.

2. Department and Team Expectations for Student-Athletes

In interviews with student-athletes, Holland & Knight learned that an essential component of student-athlete well-being is the setting of clear, transparent, and effectively communicated student-athlete expectations and consequences. In addition to the conduct policies that apply to all Texas Tech students, Texas Tech student-athletes agree as a condition of participation to abide by a number of Athletics policies and procedures collected in the *Student-Athlete Handbook* and available through the Teamworks application. For purposes of this review, Holland & Knight focused on the expectations contained in the department-wide *Student-Athlete Expectations To Educate, Serve and Grow Fearless Champions: Texas Tech Athletic Department (Student-Athlete Expectations)*, the written team-specific rules and/or expectations, and the *Texas Tech Student-Athlete Discipline Policy (Discipline Policy)*.

a. The Student-Athlete Expectations Document

Each year, Texas Tech student-athletes are required to review and sign a *Student-Athlete Expectations* document through the Teamworks application. Through this document, Texas Tech student-athletes agree “to make a positive contribution to the University” and their team “in both attitude and behavior” and to “abide by the spirit and letter of the rules of the post during practice and competition.” Additionally, players are expected to be punctual, to treat others with “respect and courtesy,” to be responsible both for their academic progress and their physical fitness, and to disclose all past and current medical conditions, including those involving mental health challenges. They must conform to all relevant laws, conference and school policies, including those that address hazing, sexual misconduct and discriminatory language and/or conduct. The *Student-Athlete Expectations* further remind students about conference and school policies with regard to maximum hours, banned substances, and random drug tests. While stopping short of placing absolute restrictions on social media activities, the Athletics Department through these expectations urge student-athletes to use “sound judgement and caution” and warn students not to disclose information related to injuries, team information, strategy, or recruiting online. In 2021-

³⁸ *Five Themes from the NCAA GOALS Study of the Student-Athletes Experience*, 2020 NCAA Convention.

2022, Texas Tech added language to address student-athlete NIL rights and opportunities. Student-athletes further are instructed that failure to meet the *Student-Athlete Expectations* may result in consequences detailed in the *Discipline Policy*, as discussed below.

b. Sport-Specific Team Rules and/or Expectations

Each year, head coaches are given the option to supplement the general student-athlete expectations with rules and/or expectations specific to their individual teams. Every head coach is required to submit a form to Compliance indicating whether: (1) student expectations are used as team expectations; (2) general expectations are provided to student-athletes orally, and if so, the date and substance of the discussion; or, (3) additional written team policies are distributed in addition to the general expectations. If head coaches opt to implement additional written policies, they must submit a copy of the expectations or rules to the Compliance Office for review through the Teamworks application. AD Hocutt stated that written team rules and/or expectations are made available to sport administrators and the FAR, and also are reviewed annually by the Texas Tech NCAA compliance office and by a member of the Office of the General Counsel. Students reported that team rules and expectations were communicated clearly.

Team rules and expectations impact the day-to-day operation of a program and govern many of the interactions between student-athletes and their coaching staff on individual teams. As stated in Texas Tech's policies, failure to abide by these rules and expectations can have serious consequences for student-athletes. For these reasons, athletics departments and subject area experts should review team rules and expectations for tone, content, and consistency with law, school, and department policies each year before sharing them with student-athletes. Holland & Knight reviewed the team rules in place for 2020-2021 and 2021-2022. As of the writing of this report, the men's basketball, baseball, and women's soccer have opted to rely solely on the department rules for the 2021-2022 academic year. The other programs have distributed written team rules that vary in tone and scope, ranging from three pages of values-based expectations that expressly apply to members of the men's tennis team's coaching staff and players alike³⁹ to a 42-page manual covering all aspects of the women's volleyball program, including play strategy. Most team rules stress personal accountability and require that players adhere to certain behavioral expectations. For example, the softball rules prohibit underage drinking, and address team communication, punctuality, self-care, and cell phone usage.

Holland & Knight found that some of the team rules contained provisions related to student-athlete well-being that should be reviewed carefully. For example, the football and men's golf team rules in place during the 2020-2021 academic year described conditioning punishments for failure to meet certain team expectations and were not in alignment with Athletics' policy or the *NCAA's Board of Governor's Interassociation Recommendations*⁴⁰ that "exercise should never be used for punitive purposes" in Athletics. These provisions were also in conflict with the medical and strength and conditioning staff's statements in interviews that conditioning punishments were not

³⁹ "Our values: Creating and maintaining an environment that is respectful of the person next to us and we work to do our personal best in all things. Every person in this program agrees with and acts accordingly with the priorities of treating people well. The relationships within this program are more important than tennis results. Relationships thrive when time, effort, and attention are put into relationships." Also "[w]e (coaches and players) follow all compliance rules."

⁴⁰ *NCAA's Board of Governor's Interassociation Recommendations: preventing Catastrophic Injury and Death in Collegiate Athletes*, effective August 1, 2019.

permitted at Texas Tech. AD Hocutt stated that the men's golf and football team rules no longer contain these provisions and that he has reinforced his expectation that conditioning will not be used as punishment with all of the men's and women's team's head coaches.

Some of the provisions had not yet been addressed as of the date of this report. For example, team rules put in place by the former football head coach at Texas Tech contain a *Date Rape and Social Policy*⁴¹ that should be carefully reviewed and edited by the Title IX office and the new coaching staff to make it consistent with school policy and prevention approach. These team rules drafted by the former staff also contain outdated and troubling language directing players to "always keep all football business [i]nside the Football Family," and to avoid being "a locker room lawyer," a term commonly used to describe players that provide advice to other athletes about their individual rights. The rules further state that, "Locker room Lawyers Will Not Last!" and "No One Will Listen To You."⁴² Other teams have incorporated rules that impose restrictions on student-athletes that are not enforceable, i.e., rules that prohibit the sharing of scholarship information, or place restrictions on players that are not reasonably related to the student-athlete's athletics participation. For example, the women's basketball team rules impose yearlong curfews unrelated to team travel or contest preparation, prohibit players from having guests in their residences after curfew, and state that members of the coaching staff may conduct random curfew checks at player residences.

In sum, Athletics should review the teams rules carefully and remove these provisions that are unenforceable, outdated, or otherwise inconsistent with Texas Tech's policies and procedures designed to support student-athlete well-being. Revising a problematic team rule, however, will not address the restriction unless the team culture behind the rule is also addressed. For this reason, Holland & Knight recommends that Athletics speak with all of the men's and women's teams, coaches, and sport-specific staff each year to assure the players and Athletics staff that they have the right to speak to others outside their program without fear of retaliation, and especially around concerns that may touch on issues of student-athlete well-being. Finally, while the general Texas Tech's department-wide *Student-Athlete Expectations* appropriately urge student-athletes to be thoughtful in their online speech, some Texas Tech team rules are more forceful in their social

⁴¹ "DATE RAPE AND SOCIAL POLICY: Being a college football student-athlete automatically puts you on display to the public regardless of the situation, therefore, think and be a class individual at all times. Studies have shown that one-third of sexual attacks on college campuses have involved student-athletes. These crimes are punishable by law and up to 30 years in prison. Take time to think before you act. Do not put yourself in a No-Win situation.

Keep the following statements in your mind:

- ☐ Sexual assault prevention and education training will be mandatory throughout your time as a football student-athlete.
- ☐ Believe that NO means NO!
- ☐ It is never okay to force any individual to do something they do not want to- not even if the individual teases you, dresses provocatively, or leads you on.
- ☐ An individual never owes you sex - EVER!!!
- ☐ Never initiate sexual intercourse or sexual acts if the woman is intoxicated or passed out.
- ☐ You must have consent throughout intercourse.
- ☐ Any sexual assaults to any individual will not be tolerated.

Alcohol and drugs were a factor in over 75% of rapes and sexually violent acts on campus. In a court of law, this will fall under 'Rape'."

⁴² Locker room lawyer is a negative term generally used to describe players who may assert their own rights, or advise other players of their individual rights, within a team.

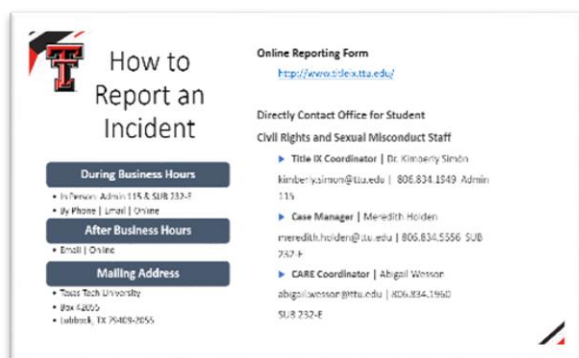
media proscriptions. All team rules should also be reviewed to ensure that they are consistent with Texas Tech’s social media and NIL policies and relevant state law.

c. The Texas Tech Student-Athlete *Discipline Policy*

Student-athletes are instructed that failure to abide by federal and state laws, NCAA rules, school and Athletics policies, including *Student-Athlete Expectations*, and any written team rules and/or expectations may result in consequences as set forth in the *Discipline Policy*. This three page document “sets forth the Athletic Department’s policy and procedures relating to disciplinary action” separate and apart from any discipline that may be imposed by Athletics. The policy defines two levels of misconduct. Level I serious misconduct included certain criminal charges and sexual misconduct, including policy violation allegations and findings, and/or sexual misconduct charges and arrests.⁴³ Level II misconduct is defined to include violations of University or Athletics policies, *Student-Athlete Expectations*, as well as written team rules and/or expectations. The list of potential sanctions for Level I and II misconduct range from simple warnings to a student athlete’s dismissal from a team and the loss of an athletics scholarship. Notably, as discussed earlier in this report, the *Discipline Policy* expressly states that student-athlete sanctions will be determined by the team coach and the team’s sport administrator, subject to review and approval by the Athletic Director.

3. Title IX in Athletics: Education and Reporting Protocols

Texas Tech Athletics coaches, staff, and students are educated annually regarding the school’s Title IX policy and procedures, including reporting avenues and obligations to report, as required by the *NCAA’s Board of Governors Policy on Sexual Violence*.⁴⁴ In addition, Athletics has developed related procedures that meet the Big 12 due diligence requirements. While outside speakers and programming had been the primary source of education within Athletics in prior years, Title IX Coordinator Simon has taken on the athletics training piece to ensure that the Texas



Tech policies and procedures are fully communicated, including the Texas Tech and community support opportunities, mandatory reporting obligations, and potential consequences for policy violations, both with regard to conduct and response obligations. During this review, the Title IX Coordinator met each team, attended and presented at department meetings, and hosted calls with staff and new employees. Holland & Knight reviewed the slide deck Title IX presented during its training and confirmed that students and staff

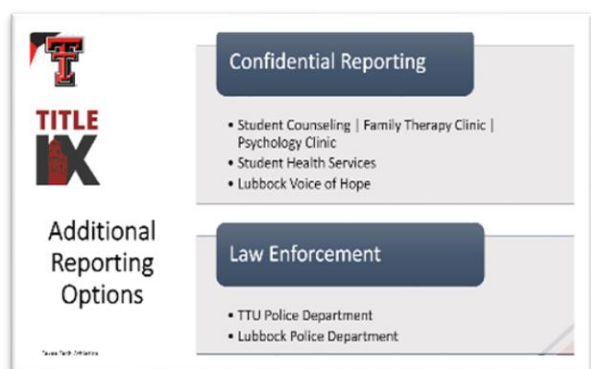
receive detailed information about Texas Tech’s Title IX office, recently renamed the Office of

⁴³ While the *Discipline Policy* appropriately states that Athletics “will not independently investigate any allegations of sexual misconduct,” it also contains language around the suspension or removal of student-athletes from Athletics activities prior to a finding of Title IX responsibility. The removal language should be reviewed closely to ensure that the procedures described around removal from athletics activities complies with the emergency removal provisions of the Texas Tech Title IX policy and the Title IX regulations.

⁴⁴ *NCAA Board of Governors Policy on Campus Sexual Violence*, available at <https://www.ncaa.org/sport-science-institute/topics/ncaa-board-governors-policy-campus-sexual-violence>.

Student Civil Rights & Sexual Misconduct, the Texas Tech sexual misconduct policy, prohibited conduct definitions, consent, reporting requirements and avenues, support services, supportive measures, process, privacy and confidential support. In addition, Athletics staff are informed both through the *Statement of Expectations* documents, in departmental meetings, in online Title IX annual training modules, and in Athletics-specific Title IX training conducted by Dr. Simon, of the serious consequences for failure to report information in a timely manner directly to the Office for Student Civil Rights and Sexual Misconduct staff online, in person, or by telephone.

Staff were candid about the amount of training they now receive in this area and about their reporting obligations. As one head coach stated, the new policy of going directly to Title IX “is over communicated. Don’t tell our sport administrator anymore about Title IX issues Now we go



directly to Title IX.” Another staff member stated that the Title IX Coordinator clearly communicated reporting obligations to all Athletics staff. He stated confidently, “I am a mandatory reporter and I understand that I should let a reporting student know that I have to report information forward” to Title IX. One sport administrator was not as confident of his responsibilities although his description of his reporting obligation was correct. He said, “I believe I am a mandatory reporter, I think of

myself as being one. If someone came to me I would say that I have to report it forward. I feel like I understand my responsibilities. At this time, I would report to [Title IX Coordinator] Kimberly Simon on campus –it used to be [the former SWA].”

In interviews with coaches and Athletics staff members, most correctly stated their reporting obligations, although there was some confusion regarding whether the ATC staff were mandated reporters or confidential resources and therefore not obligated to report to Title IX. Texas Tech’s Title IX office has since clarified that ATCs are confidential resources at Texas Tech. In addition, the team doctors stated that while they attend sexual misconduct prevention training as part of their practices outside of Athletics, they had not attended an Athletics-specific training and would like to have more information to understand their obligations and the obligations of the staff they work with in the medical area. Accordingly, Texas Tech has committed to providing Title IX training for its team doctors. Finally, Holland & Knight found that at least one program continued to bring in an outside speaker to address sexual misconduct with a team in 2020-2021. While there are many talented speakers that work with athletics teams in this space, Holland & Knight recommends that Texas Tech adopt an outside speaker approval process, in this area and others, to ensure that the training provided to student-athletes, including around issues of sexual misconduct, are consistent and aligned with Texas Tech’s policies and procedures.



a. Student-Athlete Feedback: Title IX

The Title IX office and its education efforts received high marks from the Texas Tech student-athletes. When asked if they know how to report instances of sexual misconduct, 89% of the student-athletes on the team calls said yes, 2% said no, and 9% reported that they were unsure. Students provided similar feedback around their familiarity with Texas Tech's sexual misconduct support services, with 87% reporting that they know how to seek support, 4% indicating that they did not, and 9% indicating that they are unsure. When asked if they knew where to seek confidential support, 70% of the student-athletes surveyed stated that they knew which resources were confidential, 10% reported that they do not, and 20% of the student-athletes indicating that they were unsure. Finally, when asked about their confidence in the school's Title IX process, 88% of the student-athletes surveyed stated they believed that if they raised a sexual misconduct concern it would be addressed fairly by the Title IX office, with 10% reported that they were unsure, and only 2% of the student-athletes on the team calls stated that they did not believe that the Title IX office would address the concerns fairly.

4. Diversity and Inclusion

Throughout this review, issues of diversity and inclusion were at the forefront of many of the discussions Holland & Knight had with students and staff. In the wake of the death of George Floyd, Texas Tech Athletics and many of its peer programs across the country engaged in important and sometimes challenging discussions around race, diversity and inclusion. Many students and staff talked about the important role diverse leadership plays in the lives of student-athletes. As one sport administrator observed "student-athletes want to speak with people that look like them." According to another staff member, "there is a value to seeing people in leadership positions that look like you."

In October 2020, in addition to efforts spearheaded by the Athletics DEI Committee,⁴⁵ the Multicultural Advisory Team, and a subset of the SAAC representatives formed the BSAA to "develop, coordinate, and execute messaging, programming and continued commitment to the of the then-Assistant Director for Character and Student-Athlete Development, BSAA was founded with the goal of unifying black student-athletes and providing a forum for open discussion.⁴⁶ One student founder explained that the group was founded to address a feeling that some "students feel like they have individual voices" in this space, but "not a collective voice. We were trying to get there through the BSAA." Student-athletes and staff also shared concerns around certain isolated comments allegedly made by two members of the coaching staff related to race. When asked about support within Athletics for the BSAA, one leader stated, "I think that AD Hocutt has been authentic and really engaged." The BSAA also started the Committed to Change Committee.

⁴⁵ The DEI Committee was charged with reviewing systems, policies and metrics, and with collaborating with sports administration, campus contacts, student organizations, and the local community to raise awareness around issues of diversity, equity, and inclusion, and to implement related educational programming for student-athletes and Athletics staff.

⁴⁶ SAAC Meeting Minutes, (Sept. 2020).



In 2020-2021, Texas Tech Athletics DEI programming and events included the East Lubbock and Red Raiders United Walks for Peace, Athletics forums on race and social justice, AD Hocutt-hosted open forums for student-athletes, student-athlete-led forums, two virtual sessions with respected external facilitators Jen Fry and Victoria Farris and the Social Justice Playbook, individual team sessions, and communications and social media campaigns and support, including the “More than an Athlete” and the “In my Words” video series. In February of 2021, in celebration of Black History Month, the BSAA hosted “Lubbock’s Hidden Figures,” an in-person and online “conversation highlighting the intersectionality within the community” focused on the “viewpoints of five prominent members of the Lubbock community.” In April 2021, in alignment with BSAA’s call for ongoing education “focused on racial and social injustice issues,”⁴⁷ Athletics announced that it had partnered with the Institute for Sport and Social Justice (ISSJ) to provide educational programming for its coaches and staff.⁴⁸ Led by Executive Sr. Assoc. AD/SWA and ISSJ facilitator Brandi Stuart, the six-part series was publicized as a program “designed to engage, empower and equip intercollegiate athletics departments to better inspire leadership, increase trust and elevate the culture within an organization.”⁴⁹ The program builds on other diversity and inclusion efforts within Athletics, including a Red Raiders United forum hosted by AD Hocutt for students, staff, and coaches to discuss recent national events.

In addition to race and gender, Texas Tech’s nondiscrimination policy also prohibits discrimination against students and staff on the basis of sexual orientation, gender identity and gender expression.⁵⁰ As mentioned earlier, the University has been recognized for its inclusive work in this area. Athlete Ally is an organization that ranks the work athletics programs to support their LGBTQ+ student-athletes and staff. In 2020, Athletics scored a rating of 75 out of 100 on the Athlete Ally index.⁵¹ While this places Texas Tech right in the middle of its Big 12 peers, it represents a 15- point drop from the department’s previous year’s ranking.⁵²

In interviews with students and staff, Holland & Knight learned that there is a feeling among students and staff that LGBTQIA students are comfortable being out among their peers generally, that certain men’s teams are safer spaces than others, and LGBTQIA students do not feel safe outside of campus or comfortable speaking about LGBTQIA issues with Athletics staff. One student-athlete observed, “I think gay student-athletes would feel comfortable being out” with their teammates. She added, “I know some student-athletes who are out and they are very supported.”

⁴⁷ *Id.*

⁴⁸ The ISSJ stated mission is to “Use the power of sport to effect positive change. We educate and empower individuals and organizations by inspiring values-based thinking leading to actions that promote social responsibility and equality.” See <https://sportandsocialjustice.org/mission-vision/> (last visited Nov. 2, 2021).

⁴⁹ <https://texastech.com/news/2021/4/22/general-texas-tech-partners-with-institute-for-sports-social-justice.aspx>.

⁵⁰ *07.10 Non-Discrimination and Anti-Harassment Policy and Complaint Procedure.*

⁵¹ *Athlete Ally Index*, available at <https://aei.athleteally.org/institution/texas-tech-university/>.

⁵² <https://today.ttu.edu/posts/2020/02/Stories/2020-Athletic-Equality-Index>.

Other student-athletes and staff, including those who identify as members of the LGBTQIA community, stated that while they generally feel accepted, they do not share their status openly.



Athletics has offered diversity education programming in this area in the past. In the fall of 2018 and with support from Student Involvement, Athletics brought in a nationally recognized and highly-respected speaker to work with Texas Tech student-athletes and staff through the Champions of Respect program. The program was advertised as a discussion focused on “ways to champion respect and create inclusive spaces throughout the athletic community, and within student organizations.” Holland & Knight learned that the program was poorly attended by students and staff. In interviews with Holland & Knight, Athletics personnel made comments that suggest additional education would be helpful. For example, a member of the coaching staff shared that while they would support any student that identifies as LGBTQIA, they also wanted to be clear that they “wouldn’t wish that for any student-athlete.” Another Athletics employee

stated that those who identify as LGBTQ+ are “not prevalent in West Texas” and that “some sports have more of that than others.” This employee also added that “it doesn’t matter – one way or another – we are still going to” work with student-athletes no matter what their sexual orientation might be. In end of year surveys, a football student-athlete used the derogatory term “no homo” in his athletics end-of-season comment sections, clearly indicating that he was comfortable using the term within Athletics. Football was the one program where staff and student-athletes stated that student-athletes would not feel safe to share their LGBTQIA status.

Athletics stated that more could be done to educate members of the Athletics department around all aspects of DEI and belonging issues, and to support student-athletes who may also be members of the LGBTQIA community. During this review, Texas Tech Athletics added direct links to cross-campus information and support services in this area on the Teamworks application. Using this technology, staff and student-athletes can find information and resources efficiently and confidentially. Texas Tech Athletics administration also has taken affirmative steps to demonstrate that Texas Tech Athletics is a diverse and inclusive space for all student-athletes, including by hiring diverse staff, publicizing Pride events, and providing training in this area. According to Executive Sr. AD/SWA Stuart, the work is ongoing and the goal is to develop an overall approach that will consolidate and build on the DEI efforts within Athletics and be embodied in a “comprehensive Diversity, Equity, Inclusion and Belonging strategic plan.”

a. Student-Athlete Feedback: Diversity and Inclusion

In the area of diversity and inclusion, 87% of the student-athletes on the team calls stated that they believe the administration is committed to issues of diversity. Of this group, 85% also reported they believed their coaching staff values diversity and inclusion. Only 1% felt that this issue was not important to the Athletics leadership, 2% felt that it was not important to their coaches, while 11% reported that they felt it was only sometimes important to both groups.

5. Religion and the Role of the Fellowship of Christian Athletes (FCA)

Texas Tech's *Non-Discrimination and Anti-Harassment Policy and Complaint Procedure* also prohibits discrimination on the basis of religion. In particular, the policy provides that community members must be sensitive to respect the diverse faiths of its community members and to support the appropriate role of religion on campus. The FCA is a faith-based organization with the stated mission "To lead every coach and athlete into a growing relationship with Jesus Christ and His Church."⁵³ The FCA local chapter volunteer chaplains are actively involved with a number of Texas Tech Athletics teams. During the course of the review, staff and students shared with Holland & Knight that FCA is the only organized religious group officially affiliated with the Athletics program and that volunteer chaplains that work directly with specific teams, may have involvement in organized team activities, including team travel, leading prayer circles in locker rooms, supplying bibles to student-athletes and Athletics programs for distribution, and are available to meet with staff and students upon request.

According to AD Hocutt and FAR Shannon, the Athletics department has a clear policy that states that religious activities of any sort may be made available provided all such activity is strictly voluntary. Holland & Knight confirmed that where Bible study and team devotionals are listed on the student-athletes' Teamworks app, they are listed as voluntary activities. While acknowledging that all religious activities are described as voluntary, some students and staff members, stated that some student-athletes may feel compelled to participate or remain present during team prayers to fully participate in pre-game preparation with their teammates, in team meetings or on team calls. As one administrator noted, "I thought it was pretty clear that it was all voluntary, but if you are in a room of [a number of] people and the coach starts a prayer – I don't know how you don't participate if that's not what you want to do." A sport administrator added, "Once you have a coach or other position in power, there is a definite power relationship. A player will be doing everything they can to show that coach that they are all in. If a coach says there is a voluntary chapel and they will be there, I would think it would be tough for a player not to go." A staff member pointed out that players "would have to leave the locker room before a practice or game or a team meeting if they did not want to pray or listen to prayer." A student-athlete stated that as a Christian, he/she had never really thought about the role of religion on the team until he/she noticed a teammate wearing "socks with Hanukah candles" on them. The player stated that it was the first time it occurred to him/her that it might not be comfortable for some teammates. Another player added, "If you are not a Christian, I don't know how you would feel about it." The player added, "we pray [. . .] before home games. I don't speak too much about religion with my teammates." Still another player noted that in prior years, players would have to be in the pregame prayer circle lead by the coach in order to hear the starting line-up. One coach shared with Holland & Knight that he gives a personally inscribed bible to every student-athlete he coaches while they are still actively participating on his team no matter what their religion may be.

Most of the coaches and student-athletes interviewed stated that they welcomed the resources provided by the FCA. A coach described the team's FCA chaplain as a "resource for kids who choose to be a part of it. The team will know that I am faith-based and by no means will I force that on people." The coach cited the following example to show that the activities are voluntary,

⁵³ <https://www.fcalubbock.org/who-we-are> . The Texas Tech FCA program is available at https://www.fcalubbock.org/Texas_Tech, (last visited on Nov. 2, 2021).

“We circled up to pray in one of our meetings, [and a player who is of a different faith] asked to be excluded. [The player] is a freshman.” Another coach noted that “our rep does a great job. We have had a team Chaplain who has been here for quite a while [and] travels with team. [Weekly] chapel service for days before practice in season. All voluntary. Very much optional.” Student-athletes described the FCA involvement similarly, stating “our chaplain is a spiritual leader – [who] sends individual texts to everyone before games and comes in before games and gives bible verses before games. I think most of the [players] like it. It’s pretty voluntary.” Similar examples were provided by other team coaches and staff, including a statement that a coach always makes sure students understand that they can leave team meetings if they do not want to participate in coach-led prayer and examples of team accommodations coaches had made for non-Christian players, including delaying the departure time of a bus to allow a student to pray at a required time.

On January 6, 2021, Vice Chancellor and General Counsel Eric Bentley and Deputy General Counsel Victor Mellinger met with the Texas Tech head coaches via Zoom to provide training regarding several legal matters, including the appropriate role of the FCA on campus, and in individual and team settings. According to Texas Tech, the school’s legal team reminded the coaches that the “FCA was not an organization within the Athletics Department, and that the coaches may allow, but should not overtly endorse or require student-athlete participation in the FCA or any other religious organizations or activities.” Similarly, the attorneys counselled the head coaches that any prayer or other religious observations should be initiated by student-athletes, and that they should always be voluntary. Texas Tech stated that the coaches were advised that they should refrain from any actions that could give the impression of required participation in such activities and that all student-athletes should feel free to decline participation in such activities with no real or perceived negative implications. Finally, the coaches were advised that formal religious events, e.g., baptisms, religious services, etc., should not be held in Texas Tech Athletics venues.

a. Student-Athlete Feedback: Role of Religion

While 90% of the student-athletes on the team calls report that they are always or often comfortable with the role the FCA plays in their overall Athletics experience, 10% of student-athletes report that they are only sometimes or never comfortable in this space.

D. Athletics-Related Support Services Related to Student-Athlete Well-Being

1. Medical Support and Athletics Training

Texas Tech’s Athletics medical area is overseen by the head team physician Dr. Kevin Crawford and managed day-to-day by Sr. Assoc. AD Stovall who also serves as the NCAA Athletics Health Care Administrator and the school’s primary NCAA administrative point of contact for health care. In addition to Dr. Crawford, a team of primary care physicians have assigned responsibility for specific men’s and women’s teams. One or more team doctors also attend meetings to represent Texas Tech in discussions with their peers in the Big 12. In interviews with the team doctors, Holland & Knight found that they have frequent contact with Sr. Assoc. AD Stovall and with the ATCs assigned to their teams. Each doctor stated that they review the department’s medical protocols annually and expressed high levels of trust in the Athletics training staff and in Sr. Assoc. AD Stovall’s leadership. Team physicians spoke knowledgeably about the independent medical

care model,⁵⁴ concussion and return-to-play protocols, and NCAA Sport Science Institute recommended practices. And while all of the team doctors have independent medical practices in addition to their team doctor responsibilities, each indicated a willingness and engagement to look for additional ways to make the overall support of student-athlete well-being a more collaborative and integrated process, including a desire to have more opportunities to meet as a group and greater involvement in the evaluation process of the medical team overall.

During the course of this review, Sr. Assoc. AD Stovall walked Holland & Knight through the 100-plus pages of the *Texas Tech Sports Medicine Standard Policies & Operating Procedures Manual*, the checklist associated with the *NCAA's Board of Governors Interassociation Policy on Catastrophic Injury* (covering emergency actions plans and other health and safety areas), and the *Texas Tech Department of Intercollegiate Athletics Drug Policy & Program* (including information focused on prevention and confidential self-referral to support services). According to Sr. Assoc. AD Stovall, education around these policies and procedures is provided to student-athletes and staff on an annual basis, including education around emergency action plans, concussion management and return to play, medical supplements, drug use and prevention. In addition, Sr. Assoc. AD Stovall and members of the newly reorganized medical area have established certain new policies and procedures designed to address identified student-athlete areas of concern. For example, the medical staff put into place certain protocols to be observed to address weight management, including specific protocols around team weigh ins, to be consistent with established medical standards.⁵⁵ In order to ensure a unified approach to the provision of medical support for all teams, the department instituted a review process to evaluate requests by coaches to use outside providers and/or consultants.⁵⁶ The Director of Strength and Conditioning stated that a policy now is in place “that requires that any new ideas or methods with a team must be preapproved through strength and conditioning and sports medicine.”⁵⁷

⁵⁴ Described as a best practice by the NCAA's Sports Science Institute, independent medical care describes “an environment in which primary athletics health care providers, defined as the team physician and athletic trainer, make medical decisions for student-athletes free of pressure or influence from non-medical factors. This approach empowers team physicians and athletic trainers to have final decision-making authority regarding the diagnosis, management and return-to-play determinations for student-athlete care without influence exerted by non-medical professionals, such as a coach or director of athletics.” *Independent Medical Care Legislation: A Briefing Document Submitted by the Committee on Competitive Safeguards and Medial Aspects of Sports*, NCAA Sport Science Institute (April 2017) found online at https://ncaaorg.s3.amazonaws.com/ssi/ahca/SSI_IMCBriefingDocument.pdf. The *Interassociation Consensus: Independent Medical Care for College Student-athletes Best Practices* guide may be found online at https://ncaaorg.s3.amazonaws.com/ssi/publications/SSI_IndependentMedicalCareBP.pdf (last visited on Nov. 2, 2021).

⁵⁵ *Student-athlete Health & Wellness Weight Management* policy (addressing high risk sports, team weigh ins, meals and dietary restrictions, student-athletes of concern, and body composition measurement); see also *Texas Tech Health & Wellness Student-athlete Health & Wellness Dual Energy X-Ray Absorptiometry* policy (addressing body composition).

⁵⁶ *Outside or External Consultants Working with Student-Athletes (Risk Management)* policy (“Outside or external (third party) consultants must receive prior approval from both sports medicine and compliance to work with student-athletes.”).

⁵⁷ *Implementation of New Methodologies, Technologies, and Hands-On Techniques* policy (“Critical evaluation should be performed to determine validity, efficacy, utility, and whether evidence is sufficient to warrant application to performance training programming.”).

a. Student-Athlete Feedback: Medical and Athletics Training

Texas Tech student-athletes indicated confidence in their ATC with 91% of the students on the team calls reporting feeling that their ATC is always or often invested in their physical well-being, 8% stating the they feel they are sometimes invested and 1% indicating they feel their ATC is never invested. When it comes to mental health, 88% of the student-athletes of the calls shared a belief that their ATC is always or often invested in their mental well-being, with 10% reporting feeling that they are sometimes invested, and 2% stating they feel that their ATC is never invested in their mental health. In their end-of-season surveys, athletes rated their medical support as a 4.4 on a 5.0 scale.

2. Strength and Conditioning and Biofeedback Devices

The Associate AD in charge of the strength and conditioning area also outlined for Holland & Knight all of the controls in place for his team around student-athlete safety and well-being. He personally reviewed all team conditioning workouts and player return-to-play conditioning

1 TRAUMATIC GENERAL	YES	NO	COMMENTS
In all sports, all practices and competitions adhere to existing safety standards.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
In all sports, using playing or protective equipment as a weapon is prohibited during all practices and competitions.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
In all practices and competitions, deliberately inflicting injury on another athlete is prohibited.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
All playing and protection equipment, as applicable, meets relevant equipment safety standards and related certification requirements.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
There is a regularly referenced emergency action plan consistent with the Concussion Safety Protocol Checklist for all expected practices or competitions are conducted.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
There is a regularly referenced emergency action plan consistent with the Concussion Safety Protocol Checklist for all expected practices or competitions.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
There is a regularly referenced emergency action plan consistent with the Concussion Safety Protocol Checklist for all expected incidences or severe traumatic brain injuries.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
There is a regularly referenced emergency action plan consistent with the Concussion Safety Protocol Checklist for all expected cervical spine injuries.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Medical education and prevention strategies about catastrophic injuries are provided to all sports coaches.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Medical education and prevention strategies about catastrophic injuries are provided to all strength and conditioning professionals.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

progressions and ensures that each strength and conditioning coach maintains a valid and appropriate certification in accordance with NCAA expectations. The Associate AD also stated that physical conditioning is “never used as punishment” by any member of the strength and conditioning staff, as is set forth in the *Texas Tech Strength and Conditioning Sessions* policy and further shared that the practice of using punitive conditioning was prohibited by AD Hocutt and discussed in staff meetings. Notwithstanding these assurances, Holland & Knight found that some physical conditioning punishments were described in the written rules of at least two men’s teams last year, with oversight for the punishment assigned in at least one instance to a junior member of the strength and conditioning staff. These provisions have since been removed.

Like schools across the country, Texas Tech’s teams use biofeedback devices to gather individualized information designed to more accurately inform athlete-specific performance training plans. In the past, the device use and the associated data were not always made available to members of the athletic training staff and team doctors. After concerns were raised during a team investigation that the devices had been used inappropriately by a former staff member, AD Hocutt initially suspended the use of personal wearable technology while the medical staff drafted a department-wide approval and use policy. As of the writing of this report, the new *Monitoring Devices/Biometric Data Standards* policy requires that all use must be voluntary and informed, that student-athletes must be educated and given an opportunity to ask questions, and that students must sign an acknowledgement form⁵⁸ prior to device use and data interpretation. Texas Tech Athletics Sports Scientist D.J. Clark is tasked with maintaining the student data under “appropriate medical oversight,” and for maintaining documentation to show intended use, data storage and

⁵⁸ *Texas Tech Athletics Release and Consent to Monitoring Devices During CARA* (including a statement that student-athletes may revoke their consent at any time).

security, access, analysis, scientific basis for use, and any device-related contractual provisions. All biometric data device use is reviewed annually by the Asst. AD/Director of Strength and Conditioning, the Sr. Associate AD/Sports Medicine, and the Sr. Associate AD/Compliance. Requests to use biometric devices must be made in writing by the Sport Scientist and the Director of Strength & Conditioning for approval by the same group of three, in addition to the sport coach, and sport administrator.

Texas Tech shared a summary of the devices used by team with a statement describing the purpose of the use, the data storage, data accessibility and use, data analyzation, types of information collected, benefit to the athlete, and benefit to the sport and strength coach for each devices by team. Members of the Athletics training and strength and conditioning staff confirmed that teams are “no longer using wearable technology outside of workouts,” and that “if they don’t want to use it, they are not required to do so.” This was confirmed by individual players. For example, members of the soccer and men’s basketball teams reported that they felt comfortable choosing not to wear the devices even where their teammates may continue to do so. Under the new policy, student-athletes also have the right to limit the sharing of their personal information. One student-athlete player confirmed that player information is now shared privately, “During my freshman year, all of our data was shared in a Facebook chat. Now it’s just shared individually.”

a. Student-Athlete Feedback: Strength & Conditioning

The strength and conditioning staff received the highest marks when it comes to physical well-being, with 98% of those surveyed on team calls stating that they believe their strength coach is invested in their physical well-being always or often, and 2% stating they are sometimes invested. On the mental health side, students gave this area strong marks as well, with 90% stating that they feel that their strength coach is invested in their mental health always or often, 8% sometimes, and 2% never. Similarly high team scores were posted on end-of-season surveys with the Texas Tech student-athletes giving this area their highest marks of 4.7 overall on a 5.0 scale.

b. Student-Athlete Feedback: Biofeedback Devices

For those students that participate on teams that use biofeedback devices, most student-athletes stated that they are comfortable with their use within their team with 83% reporting they are comfortable with the device use and the rest reporting that they are unsure. When asked whether they are comfortable with the way their personal data is shared within their program, 81% reported that they were, with the rest reporting that they were unsure.

3. Nutrition Services

Under the direction of Sports Dietitian Dayna McCutchin, the nutrition area now reports to the Sr. Assoc. AD Stovall and is more integrated into the overall student health and wellness model. Area-



specific policies and practices, including *Nutritional Protocol and Procedures* and *Code of Ethics for the Nutrition and Dietetics Profession* are incorporated into the overall *Sports Nutrition Operating Manual and Strategic Plan*. Now that the COVID-19 restrictions have eased, all Texas Tech student-athletes have access to the Cash Family Sports Nutrition Center and its comprehensive food offerings, including training table, hot morning snacks, fueling stations, to-go boxed meals, and additional sport-specific team meals. Texas Tech also provides its student athletes with nutrition support, fueling stations and supplement coverage, medical nutrition therapy, meal plans, and consultations, as well as education and counselling around disordered eating and body image

concerns. Athletics staff are educated around areas of concern. In July 2021, Drs. Tackett and Henley presented a session titled *What College Athletics Needs to Know about Eating Disorders*. Holland & Knight reviewed the slides of the session and found it to be a comprehensive overview of the serious medical concerns in the sports context with the goal of providing attendees with an understanding of holistic support response and treatment plan options. This area has an official twitter presence @RaiderFuel with images of team shopping tours, cooking sessions and training table menus. During the course of the review, Holland and Knight learned that some teams relied on services provided by this area more than others and that COVID-19 had impacted the visibility of this area due to restricted opportunities for student athletes to gather for meals. Those coaches and student-athletes that had worked with the sports dietitian reported positive experiences.

a. Student-Athlete Feedback: Nutrition Services

According to the end-of-year surveys, student-athletes at Texas Tech appear to be happy with the nutrition support provided to them. The team average score for this area was 4.4 on a 5.0 scale. Individual student-athletes reported positive one-on-one interactions with the nutrition staff around individual nutrition support.

4. Mental Health Support and Resources

As mentioned earlier, in May 2020, the NCAA released the results of a *NCAA Student-Athlete Well-Being Survey* with input from more than 37,000 student-athletes across NCAA Division I, II, and III schools that found an increased rate of mental health concerns among college athletes.⁵⁹ This is consistent with the information Texas Tech Athletics staff and student-athletes shared in interviews with Holland & Knight, where both groups reported feeling increased levels of stress and anxiety. As one player stated, “It’s been tough with COVID. We were very much on lockdown

⁵⁹ Survey Shows Student Athletes Grappling with Mental Health Issues, available at <https://www.ncaa.org/about/resources/media-center/news/survey-shows-student-athletes-grappling-mental-health-issues>, (last accessed on Nov. 2, 2021).

here. It was house to gym to home. That wore on us. And you want to socialize. It was difficult for sure.”

In order to provide dedicated mental health support within Athletics, AD Hocutt hired Dr. Tyler Bradstreet as the full-time Director of Clinical & Sport Psychology in 2018.⁶⁰ On April 2, 2021, AD Hocutt promoted Dr. Bradstreet to Associate AD for Psychological Health & Performance. In this role, Dr. Bradstreet stated that he oversees the mental and behavioral health and mental performance training support for the Athletics program and stays mindful of trends to determine specific areas of strength and concern within the department. Under his direction, the Clinical & Sport Psychology group provides psychological services to Texas Tech student-athletes to “foster mental health and well-being and promote peak performance in their sport and in the classroom.”⁶¹ Student-athletes and staff spoke highly of Dr. Bradstreet and his staff throughout the review. As noted earlier, during the course of this review and as an initial step toward greater cross-campus collaboration, Dr. Bradstreet was added as the Athletics liaison to the BIT Committee.

When Holland & Knight first interviewed Dr. Bradstreet in the fall of 2020, he was concerned about his ability to manage a rapidly growing caseload, due in large part to his popularity and effectiveness. Staff and student-athletes both reported that his services were in high demand. As one team doctor observed, “I think Tyler is really good and he is overwhelmed. He keeps me in the loop. For now, he is only going to be doing crisis management. It would be great if we had five Tylers.” Another staff member described his efforts as “a lifeboat trying to stay afloat with holes



in it.” In response to the obvious need for additional Athletics-specific mental health support and resources, Texas Tech Athletics hired licensed psychologist, Dr. Dayna Charbonneau in July 2021 to assist Dr. Bradstreet on a full-time basis. Dr. Charbonneau arrived at Texas Tech as the Director of Clinical & Sport Psychology after holding a similar position at West Virginia University. In collaboration with Dr. Bradstreet, Dr. Charbonneau provides mental health services, mental performance training, and wellness programming for Texas Tech student-athletes. Drs. Bradstreet and Charbonneau also oversee the work of two graduate assistant fellows charged with leading a portion of the Summer Bridge program and providing additional support where needed. Texas Tech has implemented an emergency action plan designed “to guide staff members in supporting student-athletes who

experience acute mental health risks.”⁶²

While the resources have grown, Dr. Bradstreet stated that optimal staffing in his area would require the addition of at least one more full-time psychologist to allow for additional day-to-day coverage of Texas Tech’s 17 sports teams. Part of the reason for the increased demand is the way that mental health support has been embraced by many within the department. One student-athlete

⁶⁰ Dr. Bradstreet may be found on social media @ TexasTechSportPsych.

⁶¹ *Texas Tech Clinical and Sport Psychology.pdf* (updated March 18, 2021).

⁶² *Student-Athlete Health & Wellness Mental Health Emergency Action Plan*

explained that students welcome the opportunity to speak with Dr. Bradstreet or a member of his staff. “It’s not a weird thing here to say you are going to counseling. There’s not much stigma” attached to student-athletes seeking mental health support here. Texas Tech Athletics has been intentional around breaking down barriers to seeking treatment and have participated in the Big 12 mental health awareness week campaign, with staff and students encouraging their peers to #WreckTheStigma associated with seeking mental health support. Only one program was identified as having some assistant coach level staff members who may not be as supportive as others of the mental health support.

Dr. Bradstreet makes a point of appearing before students and staff to describe the mental health resources available through his group, including by presenting to student-athletes, attending and presenting at weekly senior staff and head coach meetings. Student-athletes confirmed this, “Tyler is great. We are continuously told that we have the option to go to him.” In this way, Dr. Bradstreet and his group works to make sure that mental health and well-being remain top of mind throughout the year. Holland & Knight found that members of the coaching staff value the mental health support Dr. Bradstreet and his team provide for their players and for staff. Similarly, Dr. Bradstreet stated that coaches reach out to him to discuss concerns, refer players when appropriate, and have come to understand and appreciate the confidential nature of his work. During the review, Holland & Knight observed both the very serious toll that COVID-19 restrictions had taken on the entire Athletics community and the very real impact Dr. Bradstreet and members of the Athletics medical staff have in the area. More specifically, Holland & Knight observed how the medical group came together quickly to ensure the timely care of a student-athlete with a serious well-being health concern. Building on his existing work, Dr. Bradstreet now chairs the newly formulated Health and Advisory Committee that designed and is implementing the sports performance team approach. He noted that “collaboration among those who work with student-athletes is essential for the athlete and for the department as a whole.” He added, “I don’t know how to coach football but I do know how to optimize learning, to work with student-athletes, and help with appropriate buy-in. I’m not the coaching expert, but I can help students and teams move forward” with the best interests of the student-athletes in mind.

a. Student-Athlete Feedback: Mental Health Support and Resources

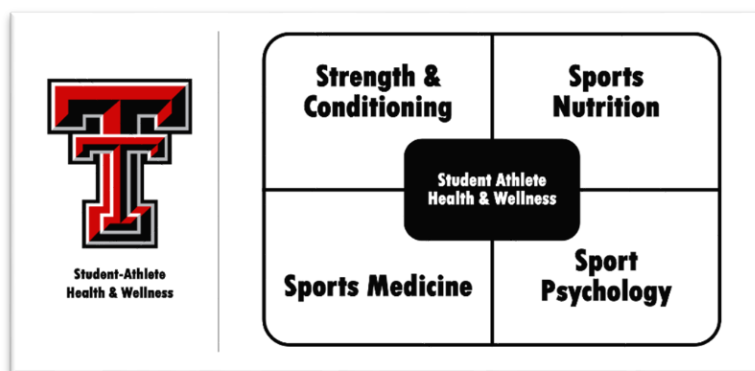
Dr. Bradstreet and his staff received high marks as indicated in the discussion above and in the team call feedback sessions. On team calls, 91% of the Texas Tech student-athletes reported that Dr. Bradstreet and his staff provide supportive mental health resources for student-athletes, 8% stated that the services were sometimes supportive, and 1% indicated that they are never supportive. In the 2020-2021 end-of-season surveys, student-athletes gave the mental health services a 4.4 rating on a 5.0 scale, according to team averages.

5. Student-Athlete Health & Wellness Sports Performance Teams

In the fall of 2020, AD Hocutt conferred with the Texas Tech medical staff and restructured the strength and conditioning and nutrition staff reporting lines in order to streamline the daily interactions between and among the team doctors, sports psychologists, ATCs, strength and conditioning coaches, data scientist, and the nutrition staff. After determining that “it makes sense to have all [of these groups] in the same area,” AD Hocutt restructured the reporting lines for the strength and conditioning and nutrition staff. Under the new configuration, medical training,

strength and conditioning, mental health, and nutrition all report to Sr. Assoc. AD Stovall. Stovall also reviews all policies, procedures, and practices related to student-athlete health and wellness in collaboration with the medical staff, including those set forth in the NCAA's Sports Science Institute website. According to a member of the Texas Tech medical team, the new structure provides "a more integrated approach to student-athlete health and wellness with careful consideration for confidentiality and the appropriate sharing of information among those with responsibility for health care, sports psychology, sports performance and nutrition."

With the newly integrated model in place, the medical staff announced the creation of a Health & Wellness Advisory Committee (HWAC), chaired by Dr. Bradstreet. With representation from the team physician, ATC, strength and conditioning, nutrition, and learning assistance ranks, the HWAC is responsible for continuing education and policy oversight centered around student physical and mental well-being support. The HWAC announced that beginning in 2021-2022 each



sport program would now operate with the support of a Sports Performance Team. Overseen by Sr. Assoc. AD Stovall and led by the head ATC for the sport, each team also consists of a member of the sports psychology, the sports nutrition, and the strength and conditioning areas. This team approach is designed "to drive collaboration and integration" to support student-athlete "health and

performance" while also ensuring that appropriate confidentiality protocols are maintained. Under the new model, Athletics has developed *Health & Safety Certification* guidelines showing the responsibilities of each unit to maintain specific policies and procedures, including ensuring appropriate staff licensures and certifications, emergency action plans, and nutritional supplements use procedures. In the presentation made to coaches, the new policies focused on student-athlete well-being were also addressed, including those related to weight management, biometric data, preventing catastrophic injury and death, the use of outside consultants, and mental health emergencies. The team doctors agreed that an integrated model made sense and would help them to track all of the important touchpoints related to student-athlete care and well-being.

Holland & Knight found that the decision to reorganize the reporting structures of four areas is consistent with statements made by sport doctors, ATCs, strength and conditioning coaches and nutrition staff that they wanted more streamlined and interactive collaboration among the areas in order to strengthen the student care model. In the same discussions, however, members of each group also expressed some reservations that the new reporting structure would be successful only if the medical area as a whole continues to "operate as a truly independent model, with the authority for hiring and oversight of all of the staff under its supervision vested with those responsible for the medical area." Holland & Knight suggests that the Texas Tech medical team meet – at least annually – to evaluate the integrated reporting structure in practice to determine whether the group is able to operate with an independent focus on the health and well-being of Texas Tech's student-

athletes and without undue outside influence consistent with the principles of the independent medical care model.

6. Academic Services

In July of 2021, AD Hocutt appointed Senior Associate AD Deedee Brown-Campbell to head the academic support area. Under her leadership, every men's and women's team is assigned one or more Athletics-based academic advisor(s) located in the Marsha Sharp Center (MSC) for Student-Athletes. The MSC is open six days per week to provide student-athletes with the space, technology, and NCAA-compliant support services necessary to support academic success. The academics staff shared that they provide team-specific academic advising and individualized support for high-risk students, including those who may have learning disabilities. MSC staff monitor student-athlete academic progress, communicate with coaching staff, help facilitate access to general and subject matter tutors, academic coaches, academic workshops and review sessions.⁶³ All entering student-athletes complete an academic assessment to help the MSC staff tailor their academic support according to the individual needs of the student-athletes, including their access to learning assistants, tutors, study hall, test preparation, study group and related support and technology. Academic services staff stated that they work cooperatively with their cross-campus academic and disability services colleagues to provide integrated academic support. Texas Tech student-athletes learn about the academic support options available to all student-athletes during orientation, including those related to the MSC Values, i.e., commitment to direct and respectful communication (Communication), holistic well-being (Care), and consistently doing the right thing (Integrity).

a. Student-Athlete Feedback: Academic Services

Per team average, the Texas Tech student-athletes awarded the academic support area a 4.4 rating overall on a 5.0 scale. Holland & Knight found that student-athletes consistently were aware of the academic support available to them. Overall, the academic support services are well-respected by Texas Tech's Athletics staff and student-athletes, with limited concerns expressed by a handful of student-athletes that had experienced individual class or support challenges. Holland & Knight did not identify any staff-specific trends. Coaches reported that academic counselors communicated with them appropriately with respect to academic progress and engagement.

7. J.T. & Margaret Talkington Leadership Academy

Leadership and life skills education related to student-athletes' well-being are at the center of the work of the J.T. & Margaret Talkington Leadership Academy staff. This group leads the Summer Bridge program, offered in two sessions, "to inform, prepare, [and] equip" incoming student-athletes with support and resources designed to support their success at Texas Tech. The first session is for those student-athletes practicing on campus over the summer, including football and men's and women's basketball, while the second session is open to all new student-athletes. During the Bridge Program, student-athletes learn about the broad range of resources available to them, including mindfulness resources, academic services, compliance and media support, medical

⁶³ A full description of the responsibilities of those who work in the MSC is set forth in the *MSC Learning Assistance Program Manual: Athletic Academic Advisors Edition* (2020-2021).

and mental health support, Title IX, and alcohol, tobacco and drug prevention, Teamworks, and the Leadership Academy services.

In addition, a first-year leadership course called Life Skills for Student-Athletes⁶⁴ is offered (but not required) for students in two sections. During this course which builds on the information provided during the Bridge Program, first year students are invited to bring their prior experiences to discussions, to explore community service and outreach, career development opportunities, and to learn about nutrition, mental health, alcohol and drugs, financial literacy, leadership, NIL, and social media and personal branding. Unlike the Summer Bridge program, those who successfully complete the fall leadership course earn academic credit hours. These introductory Athletics-focused courses compliment the Raider Ready program offered for all students during their first semester on campus. Although the athletics courses are not mandatory, staff stated that attendance is strongly encouraged by academic advisors and coaches. Additional programming and support is offered through outside speakers, educational sessions, and workshops that are centered on leadership and character development, career development, financial education, personal goal setting, community service, life skills, and personal and academic counseling. For example, first year athletic students take a survey designed to evaluate an individual's strengths with an eye towards future careers. Junior and seniors are provided a series of career development sessions through the Suited for Success Career Series, focused on resume preparation, personal presentation, and job interview skills. Those close to graduation may attend a Texas Tech-hosted career fair and are provided programming designed to help students prepare for life after graduation. Additional programming is provided for graduate students and staff.

In discussions with Holland & Knight, the staff stated that they wished the Leadership Academy programming reached more student-athletes and expressed some frustration that more of their programming was not required for student-athletes. Staff felt that this area was underutilized as a result. For their part, student-athletes shared that they found the Summer Bridge programming to be helpful. Those student-athletes who had taken the first year course stated that it had helped them better understand the many support services available to them during their time at Texas Tech. When asked why some students may take the courses while others may not, student-athletes and staff stated that they thought participation was closely tied to the individual coaches, with those recommending the program to their student-athletes resulting in the a higher rate of student-athlete enrollment and engagement.

8. The Student-Athlete Advisory Committee (SAAC)

Texas Tech's SAAC is the primary vehicle for student-athletes as a group to provide input and to present and address concerns and issues to Athletics administration. In interviews with students and staff, it surfaced that the group had not been operating to its full potential prior to the 2020-2021 year when it rewrote its operating bylaws and placed increased attendance and engagement expectations on those who wanted to be a part of this leadership group. As one student leader explained, "We wanted people who wanted to be there and wanted to be involved." As a result, SAAC has turned into something that is "engaged and impactful" where "people are proud to be representatives." During the 2020-2021 academic year, the group met monthly with additional meetings for the executive staff. As one person noted, "SAAC is no joke now. Students have really

⁶⁴ LDR (leadership) 1200 – Life Skills for Student-athletes.

bought into the value with utilizing their voice and it has been good to see the transition.” While not all teams were represented on SAAC last year, with representation missing from golf and basketball, AD Hocutt confirmed that each team has one or more representative(s) as of the fall of 2021. With support from the J.T. & Margaret Talkington Leadership Academy staff, the SAAC shares information with student-athletes; represents Texas Tech Athletics in interactions with campus and local communities; assists with community service projects; and provides the student perspective around NCAA proposed legislation.

E. Transparent, Timely, and Credible Reporting Avenues for Student-Athletes

1. The RealResponse Reporting System

In the fall of 2020, the AD Hocutt instituted an Athletics-specific online reporting application used by a number of schools called RealResponse. According to AD Hocutt, “We brought RealResponse in last fall. We wanted to find a reliable way to get information from student-athletes and one that they would trust.” The technology was not entirely new to Texas Tech. The school has been using the same company, then known as RealRecruit, to conduct its student-athlete end-of-season surveys since 2016-2017. As part of the rollout of this web-based smart-phone accessible communications tool, AD Hocutt advised student-athletes to use the site to report compliance issues, gambling, hazing, drugs/alcohol, discrimination, sexual assault, social issues, health/wellness issues, and/or COVID-19 health and safety concerns. Student-athletes are able to submit their concerns simply by texting the word Report to a designated five-digit number saved on their smartphones.⁶⁵

According to the *Texas Tech Athletics Real Response Procedure* created by the NCAA compliance office, once an issue is reported through RealResponse, the system sends a notification to the Deputy AD, Executive Sr. Assoc. AD/SWA, the Senior Associate AD for Compliance & Strategic Initiatives, and the Senior Administrative Assistant. Per Athletics policy, the Sr. Administrative Assistant reviews all initial reports, follows up with the appropriate Athletics senior staff member, or in the case of a report of sexual misconduct, to the Title IX office, logs the report on a *RealTime*



Report Tracking spreadsheet, and alerts the relevant support-area department head, where warranted. The responsible Athletics staff member is then expected to investigate the concern and respond appropriately. By way of example, an initial COVID-19-related report was forwarded to the sports medicine group and the team’s sport administrator, who then jointly evaluated and addressed the concern. The platform also allows the school to send written responses to student-athletes while ensuring that their identity remains anonymous. Holland & Knight reviewed a small sample of reports and confirmed that although Texas Tech could see the team affiliation, the student-athlete’s identity remained hidden. In cases where attempts to follow up with students

⁶⁵ Texas Tech shared an undated template for the email captioned “RealResponse Rebrand Email for Student-athletes.”

remain unanswered, Athletics will close the report by sending a final acknowledgement, with contact information that documents the steps taken.

Sr. Assoc. AD Brashear and/or AD Hocutt met with each team to introduce the RealResponse system and to walk student-athletes through the reporting process. Texas Tech provided Holland & Knight with the team training dates and student members of individual teams confirmed that they had attended the trainings. In addition to the trainings, the NCAA compliance office sends student-athletes RealResponse reminders on a regular basis. One student's comment highlighted the importance of reminders. He said, "Rapid Response? I was trained. I forgot how to contact them." This training also has been incorporated into the Summer Bridge and Leadership Academy programming to equip first-year and transfer student-athletes with effective and efficient reporting options as they enter the Texas Tech Athletics program.

2. End-of-Season Student-Athlete Experience Surveys

Texas Tech uses the RealRecruit system to send student-athletes links to an online end-of-season survey document. Using a rating scale from 1-5, with 5 representing the highest score possible and 1 representing the lowest rating, the Texas Tech student-athletes are asked to rate the athletics program overall, their head coaches, and the following support areas: strength and conditioning, sports medicine, nutrition support, academic support, and mental health support. Student-athletes also are provided the opportunity (but not the obligation) to submit comments in response to the following prompts and open ended questions:

- *Please provide comments about your overall health and well-being as a Texas Tech Student-Athlete.*
- *Are there any NCAA compliance or societal issues (bullying, gambling, hazing, drugs, alcohol, discrimination, title IX/sexual assault or violence, equity/inclusion) that Texas Tech Athletics should be aware of?*
- *Please provide comments on the education you receive as a Texas Tech Student-Athlete (Student-Athlete Expectations, Title IX, reporting, Student-Athlete Discipline Policy, Team Rules, etc.).*
- *Please provide comments about your overall student-athlete experience.*

Student-athletes also are provided an opportunity to request that they be contacted for further discussion by a member of the senior staff, i.e., with the AD, sport administrator, FAR, or Executive Staff member. AD Hocutt confirmed to Holland & Knight that he offered to meet with each student-athlete that requested a meeting in their 2020-2021 survey, and further that he met with every student that accepted his offer.

The surveys remain open for approximately one to two weeks after the conclusion of each team's championship season. Although student-athletes are encouraged to submit feedback in this way, they are not required to do so. The Senior Administrative Assistant reviews the initial responses to determine if any responses raise time-sensitive concerns or otherwise may require prompt attention. In those situations, information will be shared with the appropriate staff member to review and respond as appropriate. Sport Administrators also review the survey responses, share unit-specific feedback with support staff as appropriate, and may respond to comments directly through the RealResponse portal. Annual data is summarized and provided to the AD and select

Executive Staff. Starting in the winter of 2021, AD Hocutt began to request that individual coaches provide formal responses to the surveys for his review depending on the nature of the comments submitted by individual student-athletes. After reviewing the information, AD Hocutt shares the aggregate survey data with President Schovanec. Both AD Hocutt and President Schovanec confirmed that this information was discussed following the 2020-2021 academic year.

Starting in 2020-2021, AD Hocutt put together a subcommittee of his executive team to develop a policy to ensure that input around the questions to be asked is solicited from sport administrators and representatives academics, compliance, nutrition, and sports medicine. The new *Texas Tech Athletics Student-Athlete Experience Survey* policy was finalized in 2021. It outlines the survey administration and evaluation, as well as the responsibilities of the administrative staff and the sport administrators both before the surveys are distributed and after they are completed. To address coaches and support-staff concerns that the survey questions had not been shared in the past,⁶⁶ sport administrators now share the survey questions with coaches and support staff before the surveys are distributed. Survey responses are now incorporated into the coach and support area annual review process. In addition, sport administrators now are required to meet with student-athletes before the surveys are distributed to explain that student-athlete answers are anonymous at all times and to encourage student-athletes to participate fully in the process. After the surveys are completed, sport administrator are required to review the results to identify trends and to respond to individual comments through the anonymous portal as appropriate. The new policy also states that sport administrators will attend meetings with AD Hocutt and head coaches to review the survey responses annually. AD Hocutt confirmed that these meetings occurred with all head coaches in 2020-2021.

3. Student-Athlete Exit Interviews

The student-athlete exit interview process, like the end-of-season review process, has seen significant improvements starting in 2020-2021. Described by sport administrators and others as a voluntary meetings between exiting athletes and their sport administrators. The student-athlete exit interviews were described as informal freeform discussions with student-athletes about their experience and an opportunity to thank student-athletes for their participation. In the fall of 2020, Texas Tech updated its student-athlete exit interview process and developed a *Senior Exit Interviews* policy. This new policy establishes standardized questions for Sport Administrators to follow during the exit interviews in line with the NCAA requirement that:

The institution's director of athletics, [SWA] or designated representatives (excluding coaching staff members) shall conduct exit interviews in each sport with a sample of student-athletes (as determined by the institution) whose eligibility has expired. Interviews shall include questions regarding the value of the students' athletics experiences, the extent of the Athletics time demands encountered by the

⁶⁶ According to one sport administrator, “we did not sit around at the end of the year to study each program. It was incumbent on us to go back and look at the data.” Sport coaches told Holland & Knight that they had not been aware of the process or the questions asked prior to the fall of 2020.

student-athletes, proposed changes in intercollegiate athletics and concerns related to the administration of the student-athletes' specific sports.⁶⁷

Sports administrators are instructed to assure student-athletes that their information will be kept confidential and will be shared in the aggregate only. Students are queried about the quality of their time at Texas Tech through questions focused on their Athletics-related experiences, including during the recruiting process, and in their interactions with strength & conditioning, sports medicine, academic support, Leadership Academy, compliance, equipment, peer athletes, and coaches. Sport administrators also are directed to ask departing students about their experiences around hazing, drugs/alcohol, nutrition, academic experience, and about their successes and challenges. Under the new policy, sport administrators are directed to take notes during the meetings designed “to both applaud areas and people who have made their experiences a positive one, as well as [. . .] to make changes or adjustments in areas that need improvement.”

AD Hocutt reported that all student athletes that had exhausted their eligibility or had otherwise notified Athletics that they intended to leave the athletics program were invited to participate in an exit interview with his or her Sport Administrator.

a. Student-Athlete Feedback: Reporting Avenues, Training, and Response

Student-athletes shared with Holland & Knight that they generally have more faith now in the Athletics administration than in the past around issues of student-athlete well-being. One student spoke for many others when explaining that s/he “wasn’t comfortable filling out this [student experience survey] because it was just going back to the athletics administration.” After sharing that “there is more faith in the administration now,” the same player indicated that student-athletes “feel more comfortable participating.” Another student-athlete observed that the department’s actions will make the difference. He stated, “For me, talk is cheap. I am waiting to see how things are resolved.” Still another stated, “I think complaints are taken seriously now and will be resolved fairly. Not great in the past but I think they are on top of it now.” When asked how confident student-athletes were in the fair resolution of concerns, one stated, “Fairness? I am more confident than I had been. If I needed to go to [AD Hocutt], I could. I’m not sure others feel the same way.”

Some student-athletes noted that their coaches have asked players to come to them first with concerns before going to the Athletics administration. This approach received mixed reviews. On the one hand, some student-athletes felt that these requests showed a sincere willingness to talk about concerns as they happen in order to resolve issues early on. For example, one coach told the team that “if you have an issue with me, I would hope that you would come to me first,” while also telling players that there was a “pretty open door policy with” AD Hocutt if they wanted to go to him directly. On the other hand, some student-athletes reported that the messaging felt more like a directive than a suggestion, with students fearing retaliatory consequences if they shared information outside of the program before sharing it with their coaches. In one-on-one interviews, student-athletes said it all depended on how much they trusted the person they chose to speak with about their concerns. A head coach agreed that student-athletes need to feel safe reporting outside

⁶⁷ NCAA Division I Manual, Article 6.3 (Adopted: 1/10/91 effective 8/1/91, Revised: 8/7/14).

of the team. “In the first team meeting – I made clear that they have access to Kirby and also that the trainer serves in this role too. They are concerned because of the past – they do not feel like they were heard. They do feel like they have a direct line to [AD Hocutt] now.”

On the team calls, Holland & Knight asked student-athletes if they knew how to report a concern around player treatment. Of the more than 330 players that responded, 77% reported that they did, 8% responded that they didn’t, and 15% stated that they were unsure. Student-athletes also were asked whether they believed that they could report concerns related to player treatment or student-athlete welfare without fear of retaliation. This time, 76% of the student-athletes on the calls stated that they believed they could report a concern safely, 9% stating that they did not believe they could report safely, and 15% stating that they were unsure. When asked whether they believed that concerns would be addressed fairly once raised, 74% of student-athletes stated that they believed concerns would be addressed fairly, 20% said they were unsure, and 6% stated that they did not believe treatment and welfare concerns would be addressed fairly.

Holland & Knight also asked student-athletes to indicate the people they would feel most comfortable reporting a concern to around player treatment or student-athlete welfare. Student-athletes were encouraged to select as many options as they wished. The Texas Tech student-athletes (68%) indicated that they would feel most comfortable speaking with a member of their coaching staff, followed by a member of Athletics administration (41% of student-athletes), and the medical or sports psychology team (38% of the student-athletes). Of the remaining options, a quarter of the student-athletes (26%) stated they would feel most comfortable reporting a concern through RealResponse. An equal number of student-athletes (22% each) stated that they would feel most comfortable speaking with a member of the Compliance staff or to someone outside of Athletics. Five percent of the student-athletes said they would feel most comfortable speaking with someone in the Leadership Academy or the MSC.

Texas Tech asked its student-athletes on their end-of-season surveys to provide written feedback regarding the training they receive relative to *Student-Athlete Expectations*, Title IX reporting, *Student-Athlete Discipline Policy*, team rules, etc. Seventy-nine student-athletes across all of Texas Tech’s men’s and women’s teams took the time to respond. All of the comments indicated that Texas Tech student-athletes felt that they were trained appropriately. One athlete wrote, “in depth training on all things that student-athletes need to know. Fantastic resources.” Another stated, “I felt very educated and aware about all of the policies and rules and education that comes with being a student-athlete.” Another shared, “We receive lots of education regarding these Zooms, online courses, compliance meetings and messages, etc.” Still another agreed, “All bases are covered in team meetings before practice with mental health office, compliance, etc.” Others noted that the information was comprehensive and that resources are available on Teamworks to track down information when needed. One student athlete agreed that while Athletics “told us everything we needed to know,” he noted that “it was once and it was online so I feel like a lot of guys missed it.”

b. Student-Athlete Feedback: Well-Being Overall

In their 2020-2021 end-of-season, Texas Tech’s student-athletes were asked to share comments about their overall health and well-being. Student-athletes on every team took the time to share their perspectives, with the majority of student-athletes reporting that they feel supported and well

taken care of within Athletics even while some reported struggling due to feelings of isolation and frustration associated with COVID-19 and social unrest. Holland & Knight reviewed all of the comments carefully, and especially those that raised concerns around mental health, feelings of isolation after incurring injuries, as well as those that raised concerns around coach communications, favoritism, and playing time. While not discounting any player concern, Holland & Knight determined that for each issue raised on any one team, other student-athletes on the same team submitted at least an equal number of positive comments about their experiences and/or the support they received.

In their comments, the Texas Tech student-athletes shared that Athletics “staff continues to make sure that my health and well-being is taken care of and in a good place even after season and during breaks. Couldn’t be any better,” reflected that “it has been difficult but there is an abundance of programs in place to ensure our success,” and noted that “I had a rough semester, but I had support around me the whole year.” As discussed earlier, student-athletes on some teams shared very different experiences with student athletes expressing concern around coaching, academic or athletic training support while teammates provided positive feedback across the same areas. For example, a student-athlete on one team stated that “I am beaten down everything hurts and mentally I am drained. It felt as if there was no care for our mental health throughout the season unless we brought it up.” The same student also shared that the team “had 2 meetings with [Dr. Bradstreet.]” Another player on the same team provided a slightly different perspective when stating that “it was really hard with COVID but once the coaches knew we were struggling, they went over and beyond to make us feel better about everything.” A minority of students athletes expressed strong negative opinions around their coaches’ communication styles, practice plans, and decisions around playing time. One student-athlete wrote that “the coaches have taken the love away from the game.”

Texas Tech student-athletes shared that navigating a national pandemic as a student-athlete was difficult for them. One player wrote, “this year was definitely the hardest and least fun but I understand the stress from COVID.” On a related note, others wrote about the help Dr. Bradstreet’s team was able to provide. One student stated, “when I was struggling the sports psychology team was able to help me. COVID season really messed us up mentally.” Another student shared that their well-being is supported, but continues to fluctuate. “My overall health and well-being at Texas Tech varies greatly,” the player stated. “Physically I have been looked after in a caring and detailed way and wouldn’t change anything, however mental health for me has been a different story. [Dr. Bradstreet] has helped me more than he knows.” Some student-athletes described feeling isolated. One felt that their mental health “wasn’t a priority,” and another reported “feeling alone.” Still another shared that, “as tough as it gets there is great support around me.” A number of student-athletes stated that, “as a Texas Tech student-athlete, my health and well-being has always been a priority for the staff,” and another shared a view that the player “never had problems resolving mental/physical health issues.”

When discussing physical health, one student-athlete wrote that the athletics trainers are “the very best in the country.” Others described concern around the perceived lack of attention paid to them once they sustained an injury. One player stated that they felt like they were “a forgotten cause” post injury and another that “when physical injuries occurred,” that they felt that “coaches rushed [them] back into training.” Still others wrote that they felt supported despite their injury. One player shared that while the “semester was difficult for me since I was injured most of the year, I

felt like I had plenty of support and encouragement from everyone in the athletics department.” Another student wrote that “Our athletic department goes above and beyond to take care of their athletes.”

Holland & Knight found that those with concerns had access to and used the systems in place to report their concerns forward. AD Hocutt stated that the Athletics administration reviewed and responded to the issues raised, that he had reviewed all of the survey comments, and that he had reached out to speak with student-athletes that raised serious concerns. Holland & Knight also confirmed that the student-athlete perspective has been incorporated into coach and staff discussions and evaluations, and had been shared with the Athletics Council, the FAR, and with President Schovanec.

IV. Conclusion

Holland & Knight found that Texas Tech generally, and the Athletics department specifically, have put in place the staffing, policies, procedures, and reporting protocols designed to support the physical and mental health and well-being of its students, including its student-athletes. Holland & Knight also found that while Athletics provides adequate training with respect to these policies, procedures, and reporting protocols within Athletics, it could do more to train student-athletes, coaches, and Athletics staff around support and reporting options outside of athletics. In addition, student-athletes, coaches, and Athletics staff would like more information around how reports are evaluated and resolved, both when raised inside and outside of Athletics. Holland & Knight further found that Texas Tech’s coaches and Athletic staff generally are invested in the mental and physical health of their peers and student-athletes and spoke knowledgeably about their reporting options and obligations. Finally, while Texas Tech’s coaches, Athletics staff, and student-athletes generally expressed a growing confidence that complaints regarding student-athlete well-being will be addressed promptly and fairly, concerns around retaliation continue to exist. Holland & Knight recommends that the University and Athletics leadership address these concerns head on but instructing staff and student-athletes that concerns may be raised in any venue, that student athletes cannot be required to speak with coaches or sport administrators before and that those who take advantage of the reporting opportunities are protected from retaliatory behaviors.

Holland & Knight would like to thank the many people who facilitated this review. This included President Schovanec and his senior leadership team, members of the office of the general counsel, and those faculty, administrators, and staff across the Texas Tech campus who so patiently shared the many ways that Texas Tech supports its students. Holland & Knight also would like to extend a special thank you to those in Athletics, including AD Hocutt, Dr. Bradstreet, Grant Stovall, and Jennifer Brashear, and the many executive staff, sport administrators, team doctors, head coaches, and members of the ATC, strength and conditioning, nutrition, academic, and student athlete leadership staff, for trusting that candid discussions would be taken seriously. And finally, Holland & Knight would like to recognize Texas Tech’s student-athletes who gave so much time and energy to this review. This Report would not have been possible without all of you.

V. Concrete Steps Implemented During the Course of this Review

Texas Tech implemented certain policies and procedures during the course of the review and referenced in this report designed to strengthen the overall support provided to student-athletes.

Much of the reorganization and hiring decisions occurred in areas that have direct and meaningful impact on the day-to-day lives of Texas Tech student-athletes, including in the areas of Title IX and mental health support.

- Implemented a campus-wide student well-being initiative called *Beyond Okay*.
- Elevated the role mental health support in Athletics by promoting Dr. Bradstreet and expanding the mental health support staffing.
- Added an Athletics representative to the list of BIT liaisons to help ensure that student-athletes are treated consistently with their peers across campus in times of crisis.
- Implemented the RealResponse real-time reporting and response system to provide Texas Tech student-athletes with an additional avenue to raise concerns anonymously and in real time. Provided education and training for each team.
- Implemented improved and systematic protocols around student athlete evaluations, including around end-of-season surveys, student-athlete exit interviews, and employee evaluations.
- Implemented changes in the medical area to provide integrated oversight and a team-focused approach to support the physical and mental health of Texas Tech's student-athletes, including the development of a Health and Wellness Advisory Committee, the formation of sport performance teams, and restructured reporting lines to allow for medical oversight of the nutrition, data scientist, and strength and conditioning areas.
- Developed policies to address important issues around student-athlete well-being, including mental health emergency procedures, weight management protocols, biometric device management, and the approved use of outside consultants.
- Developed language to be included in all new and renewed coaching contracts starting in 2020-2021 around student-athlete well-being, including mandatory reporting obligations involving student-athlete well-being concerns.
- Added language to the *Responsibilities and Expectations of Coaches* document around student-athlete well-being and mandatory reporting of concerns related to student well-being outside of Athletics, through the Dean of Student's *Raiders Report* online portal.
- Established greater transparency around coach and staff expectations for student-athletes and members of the community generally by posting links to the *Coach-* and *Staff Expectations* documents on the Athletics website in two locations.

- Hired new staff with an expertise in the area of student-athlete well-being, including a new Executive Assoc. AD/SWA, sports psychologist, and director of academic services.
- Implemented a number of diversity, equity and inclusion initiatives, including supporting the formation of the BSAA and its work. Increased the overall diversity of those serving in leadership positions within Athletics.
- Expanded the resources available for students through the Teamworks App, including resources related to student-athlete well-being both within and outside of Athletics.
- Conducted training to clarify rules and expectations around religion and organized athletics activities.

VI. Additional Recommendations

- Align the student athlete well-being and reporting provisions contained in the coaches' contract language, and in the *Coach Expectations and Staff Expectations* documents. Include language explaining what steps will be taken when reports are made to *Raiders Report* involving Athletics.
- Consider asking SAAC to provide feedback with respect to the language and reporting protocols contained in the *Coach Expectations and Staff Expectations*, and the questions asked during the end-of-season student-athlete surveys and exit interviews.
- Train student-athletes annually regarding how student-athlete input is evaluated, including by sharing how RealResponse reports are processed. Solicit student-athlete input around the RealResponse, exit interview and end-of-season questions, procedures, and response.
- Conduct a careful review of team rules and expectations annually, including by AD Hocutt, the SWA, sport administrators, and those responsible for compliance, legal, physical and mental health, DEI, and Title IX.
- Meet with the football team, coaches, and sport-specific staff to address directives put in place by the prior coaching staff not to speak with others outside the program about the program.
- Encourage greater cross campus collaboration by inviting those responsible for and/or involved in student services outside of Athletics to present to student-athletes and staff regarding *Raiders Report*, Student Counseling, DEI, and LGBTQIA resources.
- Consider incorporating LGBTQIA education and the role of organized religion in the operation of mandatory athletics activities into annual student-athlete, coaches, and Athletics staff training.

- Consider adding “Athletics-Related Concern” to the list of report areas available when using the Raider Report online tool.
- Conduct Title IX training with the team doctors. Consider scheduling regular team doctor meetings and soliciting feedback from team doctors regarding coach and medical staff evaluations.
- Expand the outside consultant and speaker approval process to require approval by those responsible for the area, e.g., mental health, strength and conditioning, Title IX, diversity and inclusion, etc.
- Continue to assess staffing levels in the provision of mental health services within athletics.