



Academics, Athletics and Law

Elsa Kircher Cole

“When I was beginning my career, I didn’t even know what the term ‘general counsel’ meant,” said Elsa Kircher Cole (’74). Having served as the general counsel for the University of Michigan and now the National Collegiate Athletic Association (NCAA) for the last eight years, Cole’s career is typical of the indirect path that lawyers often follow to the position of general counsel.

How did this BUSL graduate rise to the rank of top lawyer at the NCAA? By choosing an environment in which she felt intrinsically comfortable: the university setting.

University of Washington

“My father was a university professor,” she said. “I’ve always had a lot of respect for higher education.” In 1976 Cole landed her first major law position representing the University of Washington.

In that position, Cole successfully defended the university against its first sexual

harassment case. “That was in the early days of the law’s development,” she explained. “Circuit courts were still issuing a lot of conflicting opinions about applying Title VII law in this area.”

Soon, she began lecturing and writing about sexual harassment law—how universities could prevent sexual harassment and investigate and handle complaints. Since then Cole has lectured widely on the subject. She still helps edit the monthly publication *The Educator’s Guide to Controlling Sexual Harassment*.

University of Michigan

After 13 years, Cole felt she had done all she could at the University of Washington so she accepted a position as general counsel at the University of Michigan, overseeing the legal affairs for the entire university and its hospitals, and advising the president and the board of regents. During her eight years there, she developed a staff of legal experts, increasingly moving the university’s counsel in-house.

When a position opened at the NCAA for its first-ever general counsel, Cole decided to make a move. “I didn’t want to abandon higher education,” she said. “I saw this as an opportunity to still be involved but from a different perspective.”

The NCAA Hot Seat

Since Cole joined the NCAA, it has had no shortage of high-profile legal controversies. It faced a lawsuit brought by black students

over its practice of using minimum SAT scores to determine eligibility to play college sports (a decision which would favor the NCAA) and the association is currently facing a suit by basketball promoters against its practice of limiting the number of games teams can play outside of their regular seasons. This year, the NCAA will defend itself against suits from football players who are contesting the NCAA’s limits on the number of athletic scholarships awarded in a given year and disgruntled ex-coaches who contend that the NCAA has defamed them, to name a few.

In her time at the association, Cole has helped develop a more sophisticated NCAA culture, ensuring that the policies and rules its leaders create are grounded in a solid, factual base. “I’ll always ask, ‘Why are we doing this? If you can’t explain it to me today, you won’t be able to explain it to a jury in four years. Start now.’”

Cole credits her BUSL training for preparing her for the demanding job of general counsel. “A general counsel has to be familiar with many areas of the law, analyze things quickly, and give opinions without the luxury of researching them in depth,” she said. Participation in Moot Court and the critical analysis skills she learned at BUSL gave her the discipline to focus and find solutions to the array of problems that confront a general counsel simultaneously. Still, she said, “You have to have the personality for it. You have to find this invigorating instead of exhausting.” ■

CALENDAR OF EVENTS

October 7-9, 2005

Reunion 2005
Boston University School of Law

March 31, 2006

Conference: “The Case of Terri Schiavo: One Year Later”
Boston University School of Law

April 6, 2006

Homer Albers Prize Moot Court Finals
Boston University School of Law

April 21-22, 2006

Conference: “The Role of the Judge in the Twenty-First Century: Discretion, Power and Justice”
Boston University School of Law