

## LEGAL COUNSEL AND LITIGATION

# 16



### 16.1 OVERVIEW

As we have noted throughout this book, education is a heavily regulated industry. Saddled with employment regulations like other industries, schools and colleges also must confront an array of regulations applicable to students, financial aid, accreditation, faculty governance, and research, to name just a few subjects. Coupled with ever-expanding student activities and our society's litigious attitude, it is no wonder that schools and colleges have come to rely heavily on their legal counsel for an ever-increasing range of issues. Whether you appreciate your institution's reliance on legal counsel or begrudge it, the counsel/client relationship must be as productive and cost effective as possible.

**Chapter 16** Legal Counsel and Litigation

The thesis of this book is that a preventive law program will prevent many lawsuits and administrative claims. Even the best preventive law program, however, cannot guarantee that institutions will never be sued. A good preventive law program takes this eventuality into account by recognizing the need to resolve claims on the best possible terms, whether through settlement, mediation, arbitration, or if necessary, by trial.

In Section 16.2 we discuss various structures for legal services and the factors that should be considered in selecting the right counsel for your institution. In Section 16.3 we address the need for each institution to develop effective litigation strategies, settlement guidelines, and litigation-oversight policies. Section 16.4 turns our focus to alternative dispute resolution, which under the right circumstances can reduce litigation expense and uncertainty. When a settlement is reached it must be documented carefully; this is the topic we cover in Section 16.5.