



Collegiate Sports Practice Group Newsletter

November 2006

Electronic Dispatch

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BOARD AND COUNCIL PREPARE FOR 2007 NCAA CONVENTION

The Division I Board of Directors ("Board") maintained its positions on two proposals that will be the subject of "override" votes at the 2007 NCAA Convention January 5-8 in Orlando. Both the Board and the Management Council ("Council") prepared for the initial formal consideration of legislative proposals for the 2006-07 legislative cycle and reviewed additional agenda items at their October 2006 meetings.

Convention and Legislative Process

The Board reviewed the proposal to increase from 11 to 12 the maximum number of regular-season football games institutions in the Football Championship Subdivision ("FCS") (formerly Division I-AA) are permitted to play (Proposal No. 2005-128) that was defeated by the Board earlier in the year. The consideration was prompted by the submission of a sufficient number of requests from member institutions seeking to override the Board's action. The FCS members of the Board declined to take further action, and the proposal will now be subject to a vote by FCS members at the January Convention.

Also, an override vote by the entire Division I membership will be held at the Convention in regard to Proposal No. 2005-54, which permits a graduate student to be immediately eligible upon transfer. The override votes will take place at the Division I business session, which will follow the Legislative Forum scheduled for 12:30 to 3:30 p.m., Saturday January 6, 2007. At least a five-eighths majority vote in favor of the override by the eligible voters present and voting is required to override the legislative action taken by the Board. The vote will be based on the one-institution-one-vote principle and is considered a roll-call vote because each institution's vote is recorded.

At the meetings of the Council and the Board held in conjunction with the NCAA Convention, the initial consideration of the proposals submitted for the 2006-07 legislative cycle will take place. The Board will act on those proposals that receive strong majority (at least two-thirds) support from the Council. Other proposals will be reviewed by the Council and circulated for comment, prior to final consideration in April, or defeated. The Council preliminarily reviewed some proposals in preparation for the January discussion.

This edition of the *Collegiate Sports Practice Group Newsletter* features a compilation of the actions taken by the NCAA Division I Management Council at its October 16-17, 2006, meeting and the Board of Directors at its October 26, 2006, meeting. The Newsletter is published quarterly, following each Board meeting to assist campus chief executive officers, athletics administrators, compliance coordinators, general counsel offices and others interested in NCAA governance activity. We have formatted the Newsletter to summarize the key actions and issues in the Division I governance structure and to serve as a convenient, quick reference for any legislation adopted. This format should aid individuals responsible for disseminating such information to other institutional staff members. The brief summaries of the actions and legislation are not a substitute for reading reports and minutes of the bodies and the actual legislation, nor do they constitute legal advice or opinion about any action. To review the specific language of a Board or Council action, new legislation or an interpretation, please consult with the person designated on your campus to provide legislative interpretations.



Division I Governance

The ongoing efforts and preliminary recommendations of the Council's Governance Subcommittee regarding a possible new Division I governance model were reviewed by both the Board and Council. A possible new structure would maintain the Board as the primary body in the governance structure but would delegate some of its current jurisdiction to the substructure to allow the Board to focus on setting the divisional agenda, examining broad policy initiatives and establishing working principles. The current Council could be eliminated in the structure and replaced by a leadership/policy body. A separate legislative council could be created to provide appropriate expertise and support on the detail of NCAA bylaws. It is also contemplated that the two current large cabinets could be replaced by a number of smaller issues-specific cabinets.

Many issues and details, including the current requirements for representation by individuals in certain campus positions and the best means of assuring adequate diversity in the structure, will continue to be developed. It is anticipated that the current governing bodies will continue to receive interim reports, that a recommendation may be available for consideration at conference spring meetings and that final recommendations could be considered by the Council and Board in the fall of 2007.

Academic Performance Program

Both the Board and Council were provided updates on the continuing work of the Committee on Academic Performance. The Council discussed the committee's preliminary recommendation to establish a grant program to help institutions improve Academic Performance Rate (APR) numbers and offered observations, including that institutional practices and student-athlete profiles should be considered to ensure that the institution is making responsible recruiting decisions before grants are awarded, that consideration should be given to asking institutions to commit matching funds to qualify for any NCAA grant program, and that there may be a point where the APR is so low that an improvement grant should not be awarded. The Council also suggested that efforts be made to find an approach that would allow "academic penalties" to follow a coach that moves to another institution.

In addition to receiving the committee's report, the Board defeated Proposal No. 2005-97, which would have excluded from the APR cohort student-athletes who had graduated and who had eligibility remaining. The Board had deferred action on the legislation at its January 2006 meeting.

Student-Athlete Opportunity Fund

The Council recommended and the Board approved a request from the Collegiate Commissioners Association that "athletic development opportunities" for student-athletes be included on the list of prohibited uses for monies from the Student-Athlete Opportunity Fund. The Council agreed that the current list of costs that cannot be paid from the fund includes fees and other expenses associated with participation in a sports camp or clinic, fees and other expenses for private sports-related instruction for a student-athlete, fees for other athletic development experiences (e.g., greens fees, batting cage rental), and expenses related to participation on a foreign tour. It was noted that the fund could be used to obtain necessary travel documents such as passports and visas.

Other Actions

- Pre-College Basketball.** The Board received a presentation of the state of youth basketball. It was noted that while intercollegiate basketball appears healthy, there seem to be structural and leadership challenges in youth basketball that greatly diminish the positive educational and developmental benefits that should be derived from participation. Because of concern that these challenges could impact the game at all levels, the stakeholders in men's basketball, including the NCAA, the NBA, USA Basketball and the major athletics shoe companies, have joined together to try to develop "a market-based solution that results in a more structured and healthy environment for youth basketball."
- Presidential Task Force on the Future of Division I Intercollegiate Athletics.** The final report of the task force stresses the link of intercollegiate athletics to the overall academic mission of higher education. It emphasizes the importance of "institutional accountability, financial transparency and presidential leadership." The final report was released on October 30, 2006, and can be found on the NCAA website (www.ncaa.org).

3. **Student-Athlete Nutritional Needs.** The Council asked that a through review of current NCAA regulations concerning meal-related benefits to student-athletes be undertaken to ensure that student-athletes' nutritional needs are being met in all sports and that there is a clear understanding of current bylaws. The two Division I Cabinets (Championships/Competition and Academic/Eligibility/Compliance) were directed to work with the Student-Athlete Advisory Committee and the Committee on the Competitive Safeguards and Medical Aspects of Sport to conduct the study. The cabinets were asked to be aware that different sports may have different needs and that scheduling demands on competition days may need to be addressed. The Council requested an update on findings and possible recommendations at its April meeting.

4. **Promotional Activities.** In the continuing effort to determine the most appropriate uses of student-athletes' names and likenesses in promotional activities, the Council noted that a membership study group has been assembled to develop recommendations. The study group has been instructed that in its work it must be attentive to the NCAA principles of amateurism at the same time it is reviewing the various technologies and approaches currently available. Any recommendations developed by the group will be considered by the governance structure.

Legislative Actions Adopted by Board

The following 12 proposals (which had been identified by the Council as "noncontroversial" and approved) were adopted by the Board under its "emergency" legislative authority at its October 26, 2006, meeting:

Championships

No. 2006-114 – Executive Regulations – Financial Administration of Championships – Transportation and Per Diem Expenses – Official Traveling Parties – Women's Ice Hockey

Increases, in women's ice hockey, the official traveling party for which expenses shall be provided for participation in the NCAA National Collegiate Championship from 31 to 34.

Effective Date: Immediately (October 26, 2006) [Adopted as "emergency" legislation]

No. 2006-115 – Executive Regulations – Financial Administration of Championships – Transportation and Per Diem Expenses – Official Traveling Parties – Women's Lacrosse

Increases, in women's lacrosse, the official traveling party for which expenses shall be provided for participation in the NCAA Division I Championship from 33 to 34.

Effective Date: Immediately (October 26, 2006) [Adopted as "emergency" legislation]

No. 2006-116 – Executive Regulations – Financial Administration of Championships – Transportation and Per Diem Expenses – Official Traveling Parties – Men's Soccer

Increases, in men's soccer, the official traveling party for which expenses shall be provided for participation in the NCAA Division I Championship from 24 to 27.

Effective Date: Immediately (October 26, 2006) [Adopted as "emergency" legislation]

No. 2006-117 – Executive Regulations – Financial Administration of Championships – Transportation and Per Diem Expenses – Official Traveling Parties – Men's Volleyball

Increases, in men's volleyball, the official traveling party for which expenses shall be provided for participation in the NCAA National Collegiate Championship from 18 to 21.

Effective Date: Immediately (October 26, 2006) [Adopted as "emergency" legislation]

No. 2006-118 – Executive Regulations – Financial Administration of Championships – Transportation and Per Diem Expenses – Official Traveling Parties – Men’s Water Polo

Increases, in men’s water polo, the official traveling party for which expenses shall be provided for participation in the NCAA National Collegiate Championship from 19 to 20.

Effective Date: Immediately (October 26, 2006) [Adopted as “emergency” legislation]

No. 2006-119 – Executive Regulations – Financial Administration of Championships – Transportation and Per Diem Expenses – Official Traveling Parties – Women’s Water Polo

Increases, in women’s water polo, the official traveling party for which expenses shall be provided for participation in the NCAA National Collegiate Championship from 19 to 20.

Effective Date: Immediately (October 26, 2006) [Adopted as “emergency” legislation]

Committees

No. 2006-99 – Committees – Championship/Competition Cabinet – Sports Committees With Only Championships Administration Responsibilities – Tennis Committee, Division I Men’s and Women’s

Reduces the number of committee members on the Division I Men’s and Women’s Tennis Committee from 14 to 12.

Effective Date: Immediately (October 26, 2006) [Adopted as “emergency” legislation]

No. 2006-123 – Committees – Playing Rules Oversight Panel – Duties – Oversight and Approval of Selection of Secretary-Rules Editors

Specifies that the Playing Rules Oversight Panel shall oversee the selection process for secretary-rules editors, approve the selections of secretary-rules editors and review waiver requests for secretary-rules editor term limits.

Effective Date: Immediately (October 26, 2006) [Adopted as “emergency” legislation]

Eligibility

No. 2006-59 – Eligibility and Financial Aid – Compliance With Other NCAA and Conference Legislation

Specifies that an NCAA violation for competition while ineligible due to a conference rule violation or a violation of NCAA financial aid legislation that relates only to a violation of a conference rule shall be considered an institutional violation, but shall not affect the involved student-athlete’s eligibility.

Effective Date: Immediately (October 26, 2006) [Adopted as “emergency” legislation]

Executive Regulations

No. 2006-109 – Executive Regulations – Eligibility for Championships – Ineligibility for Use of Banned Drugs – Medical Exceptions – Anabolic Agents

Specifies that medical exceptions for the use of anabolic agents may be made by the Executive Committee for those student-athletes with a documented medical history demonstrating the need for regular use of such a drug.

Effective Date: Immediately (October 26, 2006) [Adopted as “emergency” legislation]

No. 2006-122 – Executive Regulations – Eligibility for Championships – Ineligibility for Use of Banned Drugs – Banned Drugs and Medical Exceptions – Anti-Estrogens

Adds anti-estrogens to the list of banned-drug classes and specifies that medical exceptions for the use of anti-estrogens may be made by the Executive Committee for those student-athletes with a documented medical history demonstrating the need for regular use of such drugs.

Effective Date: Immediately (October 26, 2006) [Adopted as “emergency” legislation]

Recruiting

No. 2006-33 – Recruiting – Telephone Calls to Prospective Student-Athletes – Time Period for Telephone Calls – Women’s Basketball – April Call to Juniors

Specifies, in women’s basketball, that the one permissible telephone call in April of a prospective student-athlete’s junior year in high school may not be made until the Thursday after the conclusion of the NCAA Women’s Final Four.

Effective Date: Immediately (October 26, 2006) [Adopted as “emergency” legislation]

Defeated by Board

The following proposal was defeated by the Board at its October 26, 2006, meeting:

Proposal No. Title

2005-97	Academic Performance Program – Academic Progress Rate – Exception – Student-Athletes Who Have Graduated With Eligibility Remaining
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BS&K Collegiate Sports Practice Group

This *Collegiate Sports Practice Group Newsletter* is a periodic publication prepared by the Collegiate Sports Practice Group of Bond, Schoeneck & King, PLLC, and is designed to provide information on the latest developments impacting intercollegiate athletics and compliance with NCAA legislation in NCAA Division I. The information contained in the *Newsletter* is not a substitute for professional counseling, advice or binding interpretations of NCAA legislation.

Bond, Schoeneck & King, PLLC, is engaged in the general practice of law with approximately 160 attorneys located in Kansas, New York and its affiliate, Bond, Schoeneck & King, P.A. in Florida. The work of the firm’s Collegiate Sports Practice Group is concentrated in the representation of colleges and universities in NCAA infractions matters, compliance consulting and other collegiate sports matters. The group includes Mike Glazier, former NCAA director of enforcement and founding partner of the group; Rick Evrard, former NCAA director of legislative services; Steve Morgan, former NCAA group executive director and Division I chief of staff; Kyle Skillman, attorney with experience in NCAA compliance and enforcement matters; Tom Evans, general counsel to several Division I and II institutions; and Chris Schoemann, former NCAA staff member and campus compliance coordinator. Collectively, the group has represented more than 100 colleges and universities in NCAA-related matters.

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