



Collegiate Sports Practice Group Newsletter

November 2007

Electronic Dispatch

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BOARD APPROVES DIVISION I GOVERNANCE CHANGES

The NCAA Division I Board of Directors (Board) adopted modifications of the Division I governance structure as recommended by the Management Council (Council) Governance Subcommittee to be effective September 1, 2008. At its November meeting, the Board also prepared for the NCAA Convention to be held January 10-14, 2008, in Nashville.

Governance Recommendations and Amendments

In reviewing the Governance Subcommittee's report on the Division I structure, Board members agreed that there would be no change in the structure of the Board itself and that it would continue to serve as the division's principal leadership body. The Board approved changes in the Council to restructure it (effective in September 2008) into two separate bodies to be called the Leadership Council and the Legislative Council, with both reporting directly to the Board. Each council will have 31 members, with one representative from each of the division's multisport conferences, and will utilize weighted voting to maintain the current voting balance among conferences in the governance structure. These and other structural changes were approved by the Board utilizing its emergency legislative authority to adopt Proposal No. 2007-115.

The Leadership Council will be the primary advisory group to the Board on strategic and policy issues, and its members will be expected to have a national focus (rather than an individual institution or conference based one) in their deliberations. The Legislative Council will take on most of the legislative functions currently performed by the Council. It is intended that the new body will be responsible for final action on the more routine legislative matters needed for the efficient management of Division I and leave the Board to act on broader issues facing the division. The Legislative Council will attempt to identify early in the legislative cycle those proposals that merit the Board's attention, but the Board will have the discretion to review any proposal when it believes its consideration is warranted.

The current Academics/Eligibility/Compliance Cabinet and the Championships/Competition Cabinet will be eliminated and replaced by a series of six smaller, issue-specific cabinets. A new Championships/Sports Management Cabinet will have 31 members with the same representation and weighted-voting structure as the new councils. The other five cabinets will be the Academics Cabinet, Administration Cabinet, Amateurism Cabinet, Recruiting Cabinet and Student-Athlete Awards, Benefits and Financial Aid Cabinet. Each of these cabinets will have 21 members with one representative from each of the 11 Football Bowl Subdivision conferences and the other 10 members from among the remaining 20 conferences. Each of those 20 conferences will be represented on at least two and no more than three of the five 21-member cabinets at any one time.

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 22-23, 2007, meetings and the Board of Directors at its November 1, 2007, 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.

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The annual Division I legislative process will remain essentially unchanged. The only significant change will be that the Board will no longer be required to act on every legislative proposal. It will remain empowered to oversee all legislative actions but will only be required to act on those that it determines require further review. To ensure that the Board can utilize its authority over all legislative actions, no actions by the Legislative Council will be final until after the conclusion of the following Board meeting.

The Board affirmed its support for diversity of representation in the structure among faculty and athletics administrators of both genders and all ethnicities and agreed that it would retain responsibility for evaluating conference nominees to ensure such diversity. The new Leadership Council will be asked to examine means of enhancing diversity in the structure while providing conferences with flexibility in the appointment process. The expectations that representatives will include at least 35 percent membership from each gender and at least 20 percent membership from among ethnic minorities will be applied separately to a group consisting of the two councils and the Championships/Sports Management Cabinet and to a group consisting of the other five cabinets.

“Override” Votes at NCAA Convention

In response to override requests from member institutions concerning adopted legislation intended to address academic issues in the sport of baseball (Proposal No. 2007-9), the Board modified the legislation in August to reduce the minimum amount of financial aid that must be awarded to a baseball grant recipient from 33 percent of a full grant to 25 percent. When the amended proposal was circulated to the Division I membership a sufficient number of institutions submitted override requests to cause the Board to evaluate the legislation again. The Board declined to make additional modifications, and Proposal No. 2007-9, as amended, will be voted upon by the Division I members at the NCAA Convention in January.

The override vote will take place during the Division I Business Session on Saturday, January 12 at the conclusion of the Legislative Forum, which begins at 12:30 p.m. The voting shall be based on the principle of one institution (or voting conference), one vote and will be done by electronic roll call. In order to rescind the Board’s decision to adopt the legislation, at least a five-eighths majority vote of the active members present and voting must vote in favor of the override.

In addition to the baseball legislation (Proposal No. 2007-9), there are two other proposals that received a sufficient number of override requests and to which the Board made no changes. They also will be voted upon at the NCAA Convention. One is the proposal (No. 2006-40) that limits electronic communication in recruiting to email and facsimile and prohibits sending text messages or instant messages to prospects. The third item (Proposal No. 2006-87) is legislation that changes the way in which men’s and women’s golf competition is counted toward the maximum permissible number of contests. Specifically, it limits a student-athlete’s participation to nine three-day tournaments or 24 dates of competition and is intended to result in less missed class time for student-athletes.

Academic Performance

The Committee on Academic Performance is conducting an extensive review of the impact of transfer student-athletes on Academic Performance Rates (APR) and is considering possible adjustments for student-athletes with some specified minimum academic profile. It was reported to the Board and the Council that the review has confirmed that “retention” of a student is a strong predictor of graduation and that an individual with a strong academic high school profile is less likely to become ineligible and transfer away from the institution, which would decrease the negative impact on the APR. The data also showed that a student-athlete who earns a large amount of academic credit in the first year of college and performs well academically is more likely to receive a baccalaureate degree.

The Board approved additions to the historical penalties for a baseball team with a low APR when it is subject to a penalty for the second time. The penalty will include a reduction in the length of the playing season and the permissible number of contests. Specifically, a baseball team that is subject to the second tier of historical penalties, but that demonstrates significant improvement, will be subject to a five percent reduction in the length of the season and number of contests. Such a low-performing team that does not meet the improvement review will be subject to a 10 percent reduction in the season and number of games.

Other Actions

1. **Membership Moratorium.** In August, the Board adopted legislation to establish a four-year moratorium that precludes an institution from beginning any Division I membership process and precludes election of a conference to Division I membership. Under current membership rules, movement from NCAA Football Championship Subdivision (FCS) status to Football Bowl Subdivision (FBS)

status is considered multidivisional reclassification and is precluded during the moratorium. However, institutions that do not sponsor football and wish to add the sport have not been required to use the multidivisional reclassification process or any other legislative transitional process. Accordingly, the Board adopted Proposal No. 2007-116 to establish a similar moratorium on new classifications to FCS for any Division I member that wants to add the sport of football.

2. **Men's Basketball.** The Board and Council received reports on the work of the Men's Basketball Academic Enhancement Group and learned that the group is optimistic that meaningful strategies and recommendations will be developed to improve the academic culture and level of academic performance in men's basketball. The Group has subcommittees reviewing various topical areas, including transfers, academic preparation and support, coach/player relationships and playing and practice seasons.

3. **Oversight and Monitoring Group.** The Oversight and Monitoring Group established by the Board in April 2007 to prioritize the recommendations in the report of the Presidential Task Force on the Future of Division I Intercollegiate Athletics and oversee their implementation reported to the Board that it had identified presidential leadership, fiscal responsibility and athletics certification as areas of priority. It was noted that progress is being made in the changes in the governance structure. The Board agreed to sponsor legislation (Proposal No. 2007-117) to remove the "self-sufficiency clause" from the Division I Philosophy Statement set forth in Bylaw 20.9-(g). The provision currently states that a member of Division I "strives to finance its athletics program insofar as possible from revenues generated by the program itself."

Legislative Actions

Adopted by Board

The Board adopted the following 10 items of legislation, through its emergency or non-controversial authority, at its November 1, 2007, meeting:

Administrative Regulations

No. 2007-106 – Administrative Regulations – Final Four Basketball Event Certification – Men's Basketball

Eliminates in men's basketball the evaluation period and the basketball event certification process for an event held in conjunction with the NCAA Men's Final Four.

Effective Date: Immediately (November 1, 2007)

No. 2007-112 (as amended) – Administrative Regulations – Summer Basketball Leagues and Certified Basketball Events – Additional Criteria – Agents and Medical Insurance

Specifies that the following additional criteria must be satisfied in order for a summer basketball league or a basketball event to be certified: (1) No individual or agency involved in the marketing of any individual's athletics reputation or ability (including an employee of an agent or anyone associated with an agent in his or her capacity or marketing any individual's athletics reputation or ability) shall be associated in any capacity with the league or event (or any team participating in the league or event); and (2) The league or event operator is required to provide proof of medical insurance coverage for participants.

Effective Date: Immediately (November 1, 2007)

Championships

No. 2007-97 – Championships and Postseason Football – Eligibility for Championships – Ineligibility for Use of Banned Drugs – Duration of Ineligibility – Timing of 365-Day Period

Specifies that a student-athlete who tests positive for a substance in a banned-drug class shall remain ineligible for all regular-season and postseason competition during the time period ending one calendar year after the collection of the student-athlete's positive drug-test specimen; further, specifies that if the student-athlete participates in any contests from the time of collection until the confirmation of the positive result, he or she must be withheld from an equal number of contests after the 365-day period of ineligibility.

Effective Date: Immediately (November 1, 2007)

Committees

No. 2007-113 – Common Committees – Committees With Playing Rules and Championships Administration Responsibilities – Wrestling Committee

Increases the number of members of the NCAA Wrestling Committee from 13 to 15 and the number of Division I representatives on the committee from six to eight.

Effective Date: Immediately (November 1, 2007)

No. 2007-114 – Committees – Association-Wide Committees – General Committees – Honors Committee – Composition – Chancellor or President

Increases the number of members of the honors committee from eight to nine and specifies that one member shall be a current or former chancellor or president from a member institution.

Effective Date: Immediately (November 1, 2007)

Governance

No. 2007-115 – Organization – Division I Governance Structure

Revises the Division I governance structure as specified in the proposal and outlined above.

Effective Date: September 1, 2008

Membership

No. 2007-116 – NCAA Membership – Division I Membership – Moratorium – Football Championship Subdivision Classification

Specifies that for a four-year period beginning August 9, 2007, no institution shall be permitted to seek classification or reclassification in the football championship subdivision.

Effective Date: Immediately (November 1, 2007)

Playing and Practice Seasons

No. 2007-90 – Playing and Practice Seasons – Field Hockey – First Contest or Date of Competition

Specifies in field hockey that the first permissible contest date shall be the Friday prior to the 11th weekend prior to the start of the NCAA Division I Field Hockey Championship, except that the alumni contest may be played the weekend prior to the first scheduled contest.

Effective Date: August 1, 2008

Recruiting

No. 2007-37 – Recruiting – Contacts and Evaluations – Telephone Calls to Prospective Student-Athletes – Collect and Toll-Free Telephone Calls – Exception – Women’s Basketball

Permits institutional coaching staff members in women’s basketball to accept collect and toll-free telephone calls placed by a prospective student-athlete and the prospective student-athlete’s parents and legal guardians, provided the calls are not placed earlier than the date on which an institution may begin placing telephone calls to the prospective student-athlete.

Effective Date: Immediately (November 1, 2007)

No. 2007-111 – Recruiting – Contacts and Evaluations – Men’s Basketball – Summer Evaluation Period – Noninstitutional Nonorganized Events

Prohibits in men’s basketball evaluations at noninstitutional nonorganized events (e.g., pickup games) during the summer evaluation period.

Effective Date: Immediately (November 1, 2007)

Sponsored by Board

The Board agreed to sponsor the following two items of legislation at its November 1, 2007, meeting:

No. 2007-110 – Financial Aid – Reduction and Cancellation During Period of Award – Reduction of Cancellation Not Permitted – Injury, Illness or Physical or Mental Medical Condition

Would specify that institutional financial aid based in any degree on athletics ability may not be reduced or cancelled during the period of its award because of an injury, illness or physical or mental medical condition.

Effective Date: Immediate

No. 2007-117 – Division Membership – Division I Membership Requirements – Philosophy Statement – Self-Sufficiency of Athletics Program

Would eliminate the self-sufficiency clause from the Division I philosophy statement.

Effective Date: August 1, 2008



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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