



Collegiate Sports Practice Group Newsletter

November 2009

Electronic Dispatch

[Go to BS&K Collegiate Sports Practice Group Home Page](#)

BOARD ADDRESSES MEN'S BASKETBALL ISSUES

Concerns about men's basketball recruiting activities drew the attention of the Division I Board of Directors (Board) during its October 29, 2009, meeting. The Board received a report about several issues and took immediate action on one. Activities involving various units of the Division I governance substructure and standing committees also were reviewed by the Board.

Men's Basketball Enforcement Matters

Representatives of the NCAA enforcement staff, conference commissioners and men's basketball coaches met with the Board and presented a plan to address issues in the men's basketball recruiting environment. Among the primary concerns are the activities of various individuals involved with prospective student-athletes. The Board took immediate action to utilize its "emergency" authority to adopt Proposal No. 2009-95 related to the definition of a "recruited prospective student-athlete" for purposes of men's basketball camps and clinics. It also issued interpretations to identify situations that are considered to be violations of NCAA rules for activities occurring after the adjournment of the Board's October meeting.

The expanded definition of a recruited men's basketball prospect was adopted to augment the implementation of the interpretations that make it an NCAA violation to employ an "individual associated with a prospect" in a camp or clinic. Such an individual is now identified as anyone who "maintains contact" with a prospect at any point during the prospect's participation in basketball and "whose contact is directly or indirectly related" to the prospect's "athletic skills and abilities or recruitment by or enrollment in an NCAA institution." The expanded definition (per Proposal No. 2009-95) of a recruited prospect adds new factors to the current classification, including situations in which the prospect's attendance at any institutional camp has been solicited, recruiting materials have been sent to the prospect, a coaching staff member has had recruiting contact with the prospect, the prospect has received a verbal offer of financial aid or the prospect has verbally committed to the institution.

Other circumstances that are now considered violations in men's basketball include the operation of a boy's basketball camp in a different manner than other boy's basketball camps operated by the institution, payment of a consulting fee to an individual associated with a prospect or "involvement by a men's basketball staff member or a booster in the operation or planning of a men's basketball nonscholastic event on campus." Further, it is not permissible for an institution or men's basketball staff member to make a donation to "a nonprofit foundation that expends funds for the benefit of a nonscholastic team, prospective student-athlete or an individual associated with a prospective student-athlete."

This edition of the *Collegiate Sports Practice Group Newsletter* features a compilation of the actions taken by the Board of Directors at its October 29, 2009, 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.

Bond, Schoeneck & King, PLLC ■ New York ■ Albany Buffalo Garden City Ithaca New York Oswego Syracuse Utica
■ Kansas ■ Overland Park ■ Florida ■ Naples

This document may be considered "Attorney Advertising" under the rules of some states.
The hiring of a lawyer is an important decision that should not be based solely upon advertisements.



Significant consequences are prescribed for such violations. A head men's basketball coach "will be subject to NCAA tournament or regular season game suspensions for violations in his program" involving camp employment or operation, donations to nonprofits, payment of consulting fees, impermissible entertainment for individuals associated with a prospect or involvement in nonscholastic events on campus. Further, a prospective or enrolled student-athlete will become "permanently ineligible for competition at the offending institution for violations involving the payment of consulting fees."

In addition to the immediately adopted Proposal No. 2009-95, the Board agreed to sponsor four other proposals for consideration in the regular 2009-10 legislative cycle to address additional men's basketball recruiting concerns. Proposal No. 2009-99 would impose a ban on hiring individuals associated with basketball prospects in noncoaching staff positions within the athletics department. Proposal Nos. 2009-100, 101 and 102 relate directly to recruiting and would respectively bar on-campus boy's or men's basketball nonscholastic contests or events; permit coaches to recruit prospects during the institution's basketball camps; and limit employment at men's basketball camps to enrolled students and institutional staff members.

Academic Performance Program

The Committee on Academic Performance reported on its continuing work in developing the Head Coaches' APR (Academic Performance Rate) Portfolio, which will provide APR data concerning that coach's program. It was noted that the development of the website for accessing such information is on schedule for availability in the summer of 2010 (for the first group, which will include head coaches in football, women's indoor and outdoor track and field, baseball, and men's and women's basketball with all other sports to follow a year later). Coaches will be provided an opportunity to confirm their information prior to the public release. The committee will expand the available information to include links to graduation rates and academic performance related penalties.

The committee reported that it is beginning an extensive review of the Academic Performance Program (APP) to evaluate the program's effectiveness in reaching the membership's goals for academic reform. The focus will be on the questions of whether the goals are being achieved through the current system of measurements, penalties and public recognition; whether the penalty benchmarks are useful in motivating improved academic performance; and whether the current system of penalty filters and waiver directives are working as intended. The committee also indicated that it is studying the academic support resources and practices for student-athletes and plans for a long-term analysis of the initial-eligibility standards. The Academics Cabinet is currently reviewing initial-eligibility requirements to determine whether adjustments should be recommended.

Men's Basketball Academic Enhancement Group

The final report and recommendations of the Men's Basketball Academic Enhancement Group were reviewed by the Board. The Board agreed to sponsor three proposals for the regular 2009-10 legislative cycle that were supported by the group and would apply only to men's basketball. Those proposals would: (1) limit the number of physical education activities courses that may be considered in determining eligibility for two-year college transfer students (Proposal No. 2009-96); (2) exempt from counting the financial aid awarded to a student-athlete who no longer participates after a coaching change (Proposal No. 2009-97); and (3) establish a new preseason practice model and reduce the maximum number of games by one (Proposal No. 2009-98).

Two other recommended legislative proposals were not sponsored by the Board. One would have mandated academic assessments of men's basketball prospects and student-athletes and required summer attendance with mandatory financial aid support in certain circumstances. Board members expressed continuing concern about the proposal's implementation and costs. The other proposal that the Board declined to sponsor would have permitted an institution to provide travel expenses, including lodging and meals, for parents to accompany a prospect on an official visit.

2010 NCAA Convention

The Board reviewed the schedule for the 2010 NCAA Convention, to be held January 12-16, 2010, in Atlanta, and noted items of importance to Division I members. The Division I Business Session on the afternoon of January 15 will include voting on the override of the Division I governance structure's previous adoption of Proposal Nos. 2008-46, which establishes limitations in the sport of baseball on the dates for the start of practice and competition in the championship segment, and 2008-59, which establishes sand volleyball as an emerging

sport for women. Division I member institutions and conferences in attendance will vote on the legislation with a five-eighths majority of those present and voting required to override the adoption. Also, specifically, identified as significant were the official opening session and delegates reception on January 14, the Division I Issues/Legislative Forums beginning at 9:30 a.m. on January 15, and the Honors Celebration also on January 15.

Other Actions

1. **Definition of Bowl Eligible Team.** The Board agreed to sponsor legislation in the regular 2009-10 legislative cycle to define a “deserving team” for purposes of postseason bowl eligibility for Football Bowl Subdivision teams. The definition included in Proposal No. 2009-103 would be that such a team must have won a number of games against Football Bowl Subdivision opponents that is equal to or greater than the number of overall losses.
2. **Committee on Infractions and Infractions Appeals Committee.** The Board received a report from the Division I Committee on Infractions related to “several policy areas of concern to the committee.” The Board agreed to appoint two of its members to meet with the chairs of the committee and the Infractions Appeals Committee and with related staff members to discuss the areas in order to report to the Board in January. The Board also approved a recommendation from the appeals committee to amend the NCAA Enforcement Policies and Procedures to require individuals making appeals in infractions cases to disclose current or future employment at a member institution to the committee at the time of the appeal.
3. **Division I Membership Standards.** The Leadership Council is continuing its review of the Division I membership standards and is preparing a series of recommendations for submitting a final report to the Board. The council anticipates that the recommendations will be available for review during spring 2010 conference meetings and that appropriate legislation can be considered in the 2010-11 cycle. The schedule will coincide with the anticipated end of the moratorium on new Division I members and conferences, which expires in August 2011.

Legislative Actions

Adopted

The Board at its October 29, 2009, meeting adopted one proposal using its “emergency” authority and accepted the Legislative Council’s adoption of 10 other items of noncontroversial legislation, as follows:

Amateurism

2009-25 – Amateurism – Promotional Activities – Institutional, Charitable, Education or Nonprofit Promotions – Release Statement – De Minimis Violation

Specifies that a violation of the promotional activities legislation in which the only condition of the legislation not satisfied is the requirement that the student-athlete and an authorized representative of the charitable, educational or nonprofit agency sign a release statement shall not affect the student-athlete’s eligibility, provided the release statement would have been signed if such a request had been made.

Effective Date: Immediately (October 29, 2009) [Adopted as noncontroversial legislation]

No. 2009-89 – Amateurism – Validity of Amateur Status – Eligibility for Practice or Competition – Temporary Certification – Recruited Student-Athlete – 45-Day Period

Specifies that a student-athlete may practice, but not compete, for a period of 45 days before his or her amateur status has been certified by the NCAA Eligibility Center.

Effective Date: Immediately (October 29, 2009) [Adopted as noncontroversial legislation]

Awards/Benefits/Expenses

No. 2009-71 – Awards, Benefits and Expenses for Enrolled Student-Athletes – Housing and Meals – Permissible Preseason Practice Expenses – De Minimis Violation

Specifies that a violation of the preseason practice expenses legislation due to a miscalculation of the permissible start date for preseason practice shall be considered an institutional violation, but shall not affect the student-athlete's eligibility.

Effective Date: Immediately (October 29, 2009) [Adopted as noncontroversial legislation]

Committees

No. 2009-90 – Committees – Common Committees – Committees With Only Championships Administration Responsibilities – Women's Ice Hockey Committee Composition

Specifies in women's ice hockey that the NCAA Division I Women's Ice Hockey Committee shall be composed of three members from Division I and one at-large member.

Effective Date: August 1, 2010 [Adopted as noncontroversial legislation]

No. 2009-91 – Committees – Common Committees – Committees With Governance Administration Responsibilities – International Student Records Committee – Composition

Specifies that the NCAA International Student Records Committee shall consist of six members, including two Division I representatives, two Division II representatives and two representatives who may be from either Division I or Division II.

Effective Date: Immediately (October 29, 2009) [Adopted as noncontroversial legislation]

No. 2009-92 – Committees – Division I Cabinets and Committees – Committees With Championships Administration and Sports Issues Responsibilities – Men's Ice Hockey Committee Composition

Specifies that the NCAA Division I Men's Ice Hockey Committee may include members from Division II or Division III institutions that sponsor Division I men's ice hockey.

Effective Date: August 1, 2010 [Adopted as noncontroversial legislation]

Executive Regulations

No. 2009-93 – Executive Regulations – Administration of NCAA Championships – Failure to Adhere to Policies and Procedures – Maximum Financial Penalty

Increases the maximum penalty that may be imposed for an institution's failure to adhere to published administrative procedures for the submission of regular-season results, availability questionnaires and/or entry forms, without prior approval from the NCAA Division I Championships/Sports Management Cabinet, from \$300 to \$600.

Effective Date: Immediately (October 29, 2009) [Adopted as noncontroversial legislation]

Financial Aid

No. 2009-67 – Financial Aid – Terms and Conditions of Awarding Institutional Financial Aid – One-Year Period – De Minimis Violation

Specifies that a violation of the financial aid regulations in which financial aid is awarded for less than one academic year shall be considered an institutional violation, but shall not affect the student-athlete's eligibility.

Effective Date: Immediately (October 29, 2009) [Adopted as noncontroversial legislation]

Recruiting

No. 2009-46 – Recruiting – Official Visit – Number of Official Visits – Institutional Limitation – De Minimis Violation

Specifies that a violation of the institutional limitation on the number of official visits shall be considered an institutional violation, but shall not affect the prospective student-athlete's eligibility.

Effective Date: Immediately (October 29, 2009) [Adopted as noncontroversial legislation]

No. 2009-59 – Administrative Regulations – Recruiting Calendars – Women's Volleyball – Evaluation Period in Conjunction With Championship

Designates in women's volleyball Thursday of the Division I Women's Volleyball Championship through the Sunday immediately following the championship as an evaluation period; further, specifies that an institution's authorized coaching staff members may evaluate on only one day and may attend only one event on that day during this period; that the event shall occur within a 30-mile radius of the site of the championship; that coaches from the same institution who attend such an event shall attend the same event on the same day; and that coaches shall not attend events that occur at the same time that any intercollegiate competition in conjunction with the NCAA championship occurs.

Effective Date: Immediately (October 29, 2009) [Adopted as noncontroversial legislation]

No. 2009-95 – Recruiting – Sports Camps and Clinics – Definition of Recruited Prospective Student-Athlete – Men's Basketball

Defines in men's basketball for purposes of applying the regulations related to camps and clinics "recruited prospective student-athlete" as specified.

Effective Date: Immediately (October 29, 2009) [Adopted by the Board as emergency legislation]

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 200 attorneys located in Kansas, New York and 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 a Division I institution; 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.

If you have any questions about this Newsletter, please contact any of the following members of our Collegiate Sports Practice Group:

In Overland Park, call 913-234-4400 or e-mail:

Stephen R. Morgan	smorgan@bsk.com
Michael S. Glazier	mglazier@bsk.com
Richard J. Evrard	revrard@bsk.com
Kyle R. Skillman	kskillman@bsk.com

In Syracuse, call 315-218-8000 or e-mail:

Thomas S. Evans	tevans@bsk.com
-----------------	----------------

Christopher D. Schoemann	cschoemann@bsk.com
Compliance Consultant	

Not licensed to practice law