



Collegiate Sports Practice Group Newsletter

November 2010

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BOARD FINALIZES LEGISLATIVE PROPOSALS

The NCAA Division I Board of Directors (Board) used its fall meeting to hear reports from various bodies in the Division I governance structure and to resolve issues concerning legislation it has sponsored for the 2010-11 legislative cycle. All of the pending Division I proposals will be acted upon by the Legislative Council and Board during regular meetings in January and April. Prior to those sessions, Division I members will continue to review and comment on the items in anticipation of final action.

Legislative Council Report

The Board received a report of the Legislative Council's October meeting during which the Council had made its initial review of the pending proposals. The Council identified a number of topical areas in which proposed legislation might be of interest to the Board, including items related to recruiting, Division I membership standards, men's basketball academic enhancement, football eligibility, and limitations on non-coaching staff members. Issues identified in the Board's April resolution calling for a policy statement to provide better guidance regarding consideration of pending legislation were discussed. It was agreed that Council members would seek additional input from the conferences to assist in the development of a policy to achieve the desired results.

In regard to specific proposals, the Board agreed to sponsor a proposal recommended by the Council that would eliminate the opportunity for an individual to decline the sickle cell solubility test that is now a part of the required medical evaluation for student-athletes who are beginning their initial season of participation. Also, the Board decided to sponsor for the 2010-11 legislative cycle a modified version of Proposal No. 2009-100, which for men's basketball related to the use of institutional facilities for nonscholastic basketball activities and which was referred to the Men's Basketball Issues Committee in April 2010. The modifications would permit institutions to continue to host noninstitutional, instructional camps under current rules; specify that the use of facilities for noninstitutional camps shall be limited to the summer; provide an exception for events that are part of state-sponsored multisport events; and clarify that the legislation would apply to basketball events conducted on campus by any institutional department.

Committee on Academic Performance Report

Graduation rates for Division I student-athletes continue to reflect an upward trend in classroom performance according to the Committee on Academic Performance's (CAP) review of the reports of Graduation Success Rates and the Federal Graduation Rates recently released. The CAP also reported its reactions to pending proposals related to academics. It supports the recommendations of the Basketball Academic Enhancement Group, which include the establishment of a summer academic

This edition of the *Collegiate Sports Practice Group Newsletter* features a compilation of the actions taken by the Board of Directors at its October 28, 2010, 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 action (or action by other governance entity), new legislation or an interpretation, please consult with the person designated on your campus to provide legislative interpretations.

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preparation and acclimatization model in men's basketball. The Committee indicated that in regard to a proposal developed by the Football Academic Working Group, which would create a four-game loss-of-eligibility penalty for football student-athletes who do not meet specified academic requirements, it supports an alternative proposal that would provide a one-time exception to the penalty under certain conditions.

The CAP also reported that it is continuing to conduct an extensive review of the Academic Performance Program (APP), including the Academic Performance Rate (APR). The Committee is developing a set of goals and principles that guide the overall purpose of the APP and notes that continuing discussion will take place to ensure fairness to all institutions, regardless of mission, resources or any other relevant factors. The CAP continues to examine the relationship between the APR and actual graduation rates, including the possibility of incorporating graduation into the APR metric. The current APP penalty structure and its effectiveness in meeting the goal of improved academic performance for student-athletes is also being analyzed. The Board encouraged the CAP to continue its work but expressed concern about potential confusion created by any change in the APR formula at this time.

Academic Cabinet Report

Potential changes to the Division I initial-eligibility requirements and to the standards for eligibility for two-year college transfer students have been the subject of continuing review by the Academic Cabinet. The Cabinet has held a joint meeting with the CAP on these two topics. Although the review will continue (including consideration of data not yet available), the Cabinet has agreed not to recommend changes in the initial-eligibility standards at this time. The Board supported the Cabinet's ongoing review and consideration of possible changes in the future.

In regard to the requirements for immediate eligibility for two-year college transfers, the Board expressed support for the continuing review but took no action on a preliminary package of concepts the Cabinet is developing. The Cabinet's suggestions seek to balance principles of increased academic success, simplicity of administration, access to higher education and opportunity for prospective student-athletes who are academically underprepared. At this point, the concepts include an increase in the minimum transferable grade-point average for qualifiers and nonqualifiers, expanding the current men's basketball limitation of two physical-education-activity credits to all sports for both qualifiers and nonqualifiers, expanding the current required core transferrable courses to include three science credits, and eliminating the requirement of three semesters or four quarters of attendance for nonqualifiers. In addition, the Cabinet will continue evaluation of a model that would allow for remediation of academically underprepared prospective student-athletes during the first year of enrollment at a two-year college with no athletics competition permitted. In such a model, the prospect could opt for a three-year program that would delay the start of his or her progress-toward-degree timeline until after the year of academic remediation.

Leadership Council Report

The Board supported a recommendation from the Leadership Council concerning the proposed changes in the Division I membership standards (Proposal No. 2010-100) and agreed to modify that legislative proposal regarding movement from the Football Championship Subdivision (FCS) to the Football Bowl Subdivision (FBS). The change in the proposal would require an FCS institution to receive a bona fide invitation for membership from an FBS conference before the institution could continue its efforts to be reclassified to the FBS.

The Council reported on its continuing evaluation of issues related to the roles of agents with student-athletes. The differences in the draft policies of several professional sports were considered by the Cabinet. It is engaging in discussions regarding the manner by which agents enter the lives of both prospective and enrolled student-athletes and how the agents influence the decisions student-athletes ultimately make regarding professional career opportunities. The Council agreed that the agent issue is complex and relates to education, regulation and enforcement, and it will continue to work toward recommendations that will lead to a better process to assist student-athletes in making informed decisions.

The Council reported that it had received a report from the Committee on Women's Athletics noting its objection to the decision to permit the previously licensed GMAC Bowl to change its title sponsor to GoDaddy.com. The Committee observed that the NCAA license application includes a condition that the bowl licensee will promote and administer the game consistent with the image, integrity and values of the NCAA and noted that GoDaddy.com advertisements have contained sexually suggestive material. The Committee made and the Cabinet supported a request that efforts be made to ensure that GoDaddy.com advertisements and activities surrounding the bowl game maintain the integrity and image of the NCAA and its student-athletes.

The NCAA Executive Committee (which includes representatives from all membership divisions) received concerns from the divisions and from its Subcommittee on Gender and Diversity Issues about the approval of GoDaddy.com as a bowl sponsor. It was recommended that a policy be developed that expressly prohibited advertisers and/or advertisements that are not in line with the values of higher education, those that include sexually explicit or suggestive materials, discriminatory content or content that condones violence. The Executive Committee supported the general position that clearly stating that such advertisements are not appropriately associated with NCAA championships or postseason opportunities is in the best interest of the student-athletes and the NCAA but requested additional feedback from the Division I Board during its January 2011 meeting before taking action.

Other Actions

- 1. Men's Basketball Summer Recruiting.** A request from the Collegiate Commissioners Association to eliminate the summer evaluation period in men's basketball beginning in the summer of 2011 was reviewed by the Board. The Board decided not to support the immediate elimination of summer recruiting, but instead to sponsor legislation for the 2011-12 cycle to do so. The Leadership Council was directed to evaluate men's basketball recruiting, in consultation with appropriate stakeholders, and to create a new comprehensive recruiting model for the sport. The Board also suggested that, in the interim, action not be taken on proposals pending in the 2010-11 legislative cycle that impact the recruiting calendar in men's basketball.
- 2. Committee on Infractions/Infractions Appeals Task Force.** A working group comprised of representatives from the Board, Committee on Infractions, Infractions Appeals Committee and national office staff was charged with reviewing the enforcement process and the roles of the two involved committees. In its preliminary report to the Board, the task force indicated that it had identified several areas and issues for analysis, with particular attention to the procedures for conducting hearings by the committees. In the Division I governance structure, both committees report directly to the Board. The task force intends to submit recommendations to the Board at its January meeting.
- 3. Definition of a Secondary Violation.** The Board approved a revision to Bylaw 19.02.2.1 that was recommended by the Committee on Infractions to clarify the scope of secondary violations concerning "benefits" provided to a student-athlete or prospect. Specifically, the language indicating that a secondary violation could not "include any significant recruiting inducement or extra benefit" was changed to state that to be considered secondary a violation must not "include any significant impermissible benefit (including, but not limited to, an extra benefit, recruiting inducement, preferential treatment or financial aid)."
- 4. Membership Categories – Affiliated/Corresponding Membership.** The Board agreed to sponsor legislation in the 2010-11 legislative cycle that would eliminate the current "corresponding" member category and limit "affiliated" membership to coaching and sports associations related to sports sponsored by the NCAA (or that are on the emerging sport list) and to college/university administrator associations that have a direct connection to either the NCAA or its member institutions (e.g., National Association of Collegiate Directors of Athletics).

Legislative Actions

At their fall 2010 meetings, neither the Board nor the Legislative Council adopted or defeated any of the 2010-11 proposed legislation. The January and April meetings are the normal sessions in the Division I legislative cycle for final action on proposals.



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.

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