



Collegiate Sports Practice Group Newsletter

August 2004

Board Adopts Recruiting Reforms

In response to reports of recruiting abuses and public reaction to them, the Division I Board of Directors (Board) at its August 2004 meeting enacted recommendations from a special Task Force on Recruiting that were supported by the Management Council (Council). The new legislation is effective immediately. Although the annual legislative cycle will continue through April 2005, the Board determined that the need for action in a few areas was more urgent and adopted the recruiting proposals and some additional legislation, primarily through the use of its emergency or noncontroversial authority.

Recruiting Legislation

The Board adopted six legislative proposals from the Task Force on Recruiting and the Council agreed to introduce two additional suggestions for consideration during the 2004-05 legislative cycle. In taking final action, the Board members noted that the legislation had been developed to reduce the "sense of entitlement and celebrity that has become prevalent in the current recruiting culture" and to assist prospective student-athletes and institutions in reaching informed decisions through the recruiting process. Greater overall institutional control and management of the recruiting process and an effort to make the recruitment of student-athletes more closely resemble that of students generally are reflected in the items adopted.

The immediately effective, new legislation: (1) requires the establishment of written policies for official recruiting visits that are approved by the chief executive officer, evaluated by an outside entity and subject to NCAA enforcement action if disregarded [Proposal No. 2004-92]; (2) limits air travel for official visits to coach-class commercial transportation [Proposal No. 2004-93]; (3) specifies that transportation around the campus during an official visit must be in an institutional vehicle normally used to transport prospective students visiting the campus or in the personal car of a coach or student host [Proposal No. 2004-94]; (4) requires that a prospect on an official visit must be housed in regular lodging with no special services or accommodations and provided only meals comparable to those normally provided to student-athletes during the academic year plus a "reasonable snack" in addition to three meals [Proposal No. 2004-95]; (5) limits student hosts to either current student-athletes or students designated under the institution's policy for providing campus visits or tours to prospective students generally [Proposal No. 2004-96]; and (6) prohibits arranging personalized recruiting aides (e.g., jerseys or scoreboard presentations) and engaging in "game-day simulations" during a visit [Proposal No. 2004-97].

In addition to supporting the legislation adopted by the Board, the Council placed two additional proposals into the regular legislative process, which could lead to adoption in April 2005. One of the proposals would allow an institution to pay the costs of one parent to accompany the prospect on an official visit, and the other would reduce the permissible number of official visits for each prospect in football and men's and women's basketball to four (rather than the current five) [Proposal Nos. 2004-98 and 2004-99, respectively].

Legislative Changes Suggested by Basketball Coaches' Groups

The National Association of Basketball Coaches (NABC) and the Women's Basketball Coaches Association (WBCA) have presented to the NCAA governance structure some legislative changes that the coaches have developed to implement new men's and women's basketball recruiting models and address issues related to coaches' access to student-athletes and student-athlete welfare. The Council did not take a position on the recommendations but agreed to introduce the proposals into the regular 2004-05 legislative cycle so that membership support for the suggestions could be assessed. The Board received a brief update on the NABC and WBCA efforts and expressed a desire to examine and discuss the proposals at a future meeting, with the understanding that the coaches' recommendations will be considered through the normal Division I legislative process.



Changes in the Administration of “Secondary” Violations

The Council received a presentation on the changes in the process of reporting NCAA rules infractions that are considered “secondary violations” under the NCAA enforcement procedures. The new approach, effective August 1, is applicable to violations of Bylaws 10 through 17 and divides the infractions into Level I and Level II violations. Those identified as Level I are considered more serious, are specifically identified on the NCAA website and include all intentional violations or repeated violations in the same sport in the same year. Level II infractions are those that are inadvertent, isolated violations and do not require the institution to seek eligibility reinstatement for any involved student-athlete; although the student-athlete would be required to make restitution for any benefit received.

Level I violations will continue to be reported to the NCAA national office as they occur and be processed by the enforcement staff (or Committee on Infractions) under the applicable enforcement procedures. Level II violations will be processed by the institution or conference as they occur but will only be reported to the NCAA on an annual basis. For some Level II violations, the NCAA staff has identified appropriate corrective and punitive actions that must be taken in addition to any other consequence the institution or conference may impose, but for others the institution and conference are expected to take action that is believed to be appropriate and to include it in the annual report. The Council endorsed a request for the development of a “penalty schedule” for all Level II violations.

Summer Financial Aid

The Board and Council received updates on the efforts to implement the legislation adopted by the Board in April 2004 that will permit a Division I institution to award financial aid to certain student-athletes for the summer prior to their initial full-time collegiate enrollment. A small group has been identified to provide recommendations to the Board regarding the criteria to be used in determining which prospects would qualify to receive the summer aid. It is anticipated that the Board will act on the recommendations at its October meeting.

The Division I-AA/I-AAA Presidential Advisory Group, which includes representatives of all conferences in the two subdivisions and provides advice to the representatives of those subdivisions serving on the Board, expressed concern about the earlier adoption of the legislation. It observed that the Board appeared to disregard the opposition to the concept of summer financial aid prior to full-time enrollment and questioned the Board’s use of its emergency legislative authority given the unanswered questions regarding the pool of eligible student-athletes. The advisory group decided to schedule a conference call to review any recommendations developed by the special committee concerning the implementation of the legislation so that a group position could be determined prior to Board action on the recommendations.

Division I-A Membership Requirements

In its consideration of the more stringent Division I-A membership criteria, which became effective August 1, 2004, the Board received an update from the Council’s Membership Subcommittee about discussions by the Collegiate Commissioners Association and the subcommittee regarding the criteria and the decision not to recommend changes in them. In addition, the Division I-AA Governance Committee strongly endorsed the Division I-A criteria and urged that they be strictly enforced. The Board took no action to alter the membership standards but did adopt legislation (Proposal No. 2002-93, as amended), which it had tabled previously, that specifies that the failure to meet Division I-A membership requirements will first result in the institution receiving a notice of failure to satisfy the criteria and then, if there is a second failure to satisfy the standards within a 10-year period, being placed in restricted membership status in football (and ineligible for postseason football competition) for one year. Additional membership consequences could apply at the end of the year in restricted status.

The Board decided to conduct a comprehensive review of the Division I-A membership requirements over the next year to ensure that the standards are consistent with the NCAA’s strategic plan and “supportive of the collegiate model.” The Division I-AA/I-AAA Presidential Advisory Group recommended that any evaluation of the Division I-A membership criteria should logically

include a discussion of improvements for Division I-AA football. The Board acknowledged that a review of the Division I-A standards should have an integrated approach that focuses on enhancing all of the subdivisions, including an examination of possible enhancements for Division I-AA.

Academic Performance – Incentives/Disincentives Program

A report of the first meeting of the Committee on Academic Performance, which is charged with administering the recently created Academic Performance Program, including the implementation of the incentives and disincentives program, was received by both the Board and Council. The committee reported that its work in further developing the program is on schedule and that at the Board's October meeting, the committee intends to provide the Board with recommendations concerning the appropriate "cut points" for evaluating each sports team's status in regard to the academic performance rates for all teams in all sports at all Division I members and in regard to the academic performance rates for all teams in the specific sport.

The committee reported that it had approved an extension of the deadline for each institution to submit data concerning the academic performance of its student-athletes from the previous academic year by two weeks. Accordingly, institutions are required to submit data concerning the 2003-04 academic year within four weeks of the first day of classes of the 2004-05 academic year.

The committee requested approval of a modification of wording of the legislation concerning contemporaneous penalties to make it clear that such a penalty must be deducted from the maximum team financial aid limit in the sport and that the financial aid may not be re-awarded to any student (including a continuing student-athlete) if the team has reached the maximum team financial aid limit less the applicable penalty. The Council determined instead to process the change as a legislative proposal considered during the 2004-05 legislative cycle. The Board decided that the clarification was "essential to ensuring the overall strength of the contemporaneous penalties" and used its emergency legislative authority to adopt the proposal that had been sponsored by the Council (Proposal No. 2004-103), effective immediately.

Other Actions

- 1. Division I Budget.** The Board reviewed and approved the recommendations from the Division I Budget Committee for the fiscal years 2004-05 and 2005-06. Particular attention was given to new initiatives in the 2005-06 budget concerning championships expansion. After receiving a presentation from the chair of the Championships/Competition Cabinet, the Board supported the proposals. It emphasized the need for continued attention to fiscal responsibility in regard to future championships budget requests and agreed to discuss the larger issue of how institutions and the NCAA share in shouldering the increased costs of participating in NCAA championships. The Board discussed the item on the NCAA Executive Committee agenda proposing to establish a "quasi-endowment" to ensure that the current NCAA infrastructure, membership programs and student-athlete programs could continue during a significant reduction in NCAA revenue and agreed to ask the Executive Committee to defer action on the matter until October to allow more time for membership evaluation.
- 2. Legislative Cycle.** The Council reviewed a report from its Governance Subcommittee concerning the first year's experience with the single annual legislative cycle. Suggestions for improvement included developing a chart that would indicate all modifications that have been made in the proposals in the Official Notice following its initial publication, encouraging sponsors of all proposals to speak at the Division I Legislative Forum at the NCAA Convention, urging Council members and other representatives from the Division I governance structure to participate in the forum, seeking expression of conflicting viewpoints at the forum, and suggesting the attendance of Board members at the Division I Issues Forum also conducted at the Convention.
- 3. Coaches' Involvement in NCAA Championships Promotional Activities.** The Council supported the Championships Cabinet's recommendation that member institutions' coaches be permitted to participate in autograph sessions and other NCAA championship promotional activities held in conjunction with championships conducted during dead periods in the 2004-05 recruiting calendars. It was noted that a blanket waiver granted by the Administrative Review Subcommittee could allow such activities during the 2004-05 academic year but that legislation should be proposed to permit the activities to continue in future years.

4. **Fourth Season of Eligibility for Partial Qualifier.** The Council issued an official interpretation to specify that a current student-athlete who initially enrolled as a "partial qualifier" under the previous initial-eligibility standards may participate in a fourth season of competition, provided that the student-athlete could be certified as a "qualifier" under the new initial-eligibility standards (effective August 1, 2005) and that the student-athlete has satisfied all of the new progress-toward-degree requirements during each year of enrollment. The interpretation was effective immediately upon adjournment of the Council's July meeting.

5. **Sports Wagering Task Force.** An update concerning the NCAA Sports Wagering Task Force, which was established to help address the threat that gambling on sports presents to the integrity of intercollegiate athletics and the welfare of student-athletes, was provided to both the Board and Council. It was noted that the task force is focusing its efforts on developing a proactive approach that addresses the problem of student-athletes wagering on intercollegiate contests through the early identification of potential gamblers, enhanced educational efforts, suggested best practices and NCAA rules changes, where appropriate. The task force intends to present recommendations to the membership at the 2005 NCAA Convention.

Legislative Actions

The Board adopted the following 18 proposals at its August 5, 2004, meeting:

Academic Performance Program

No. 2004-103 – Financial Aid – Contemporaneous Penalty for Poor Academic Performance – Maximum Institutional Limitations

Specifies that contemporaneous penalties must be deducted from the maximum team financial aid limit in a sport; further, specifies that the financial aid may not be re-awarded to any student (including a continuing student-athlete) if the team has reached the maximum team financial aid limit minus the applicable penalties.

Effective Date: Immediately (August 5, 2004) [Adopted as "emergency" legislation]

Championships

No. 2003-60 (as amended) – Executive Regulations – Automatic Qualification – Sports Other Than Men's Basketball

Permits, in sports other than men's basketball, a single-sport member conference to retain or qualify for automatic qualification to the applicable NCAA championship, provided the conference is composed of at least six members that have conducted conference competition together the preceding two years in the sport in question at the Division I level and that sport is sponsored by less than 50 percent of the Division I membership.

Effective Date: Immediately (August 5, 2004)

No. 2004-25 – Automatic Qualification – Sports Other Than Men's Basketball – Grace Period

Creates, in sports other than men's basketball, a two-year grace period during which a conference may continue to qualify for automatic qualification to an NCAA championship when it fails to satisfy either the six-member or continuity-of-membership requirement provided the conference maintains at least five Division I members.

Effective Date: Immediately (August 5, 2004) [Adopted as "emergency" legislation]

Committees

No. 2004-8 – Committees – Core-Course Review Committee

Eliminates the NCAA Division I Core-Course Review Committee with its duties to be handled by the Academics/Eligibility/Compliance Cabinet Subcommittee on Initial-Eligibility Issues. [Note: The proposed change involves a common provision and, thus, must be acted on by the Divisions I and II membership acting independently.]

Effective Date: Immediately (August 5, 2004) [Adopted as “noncontroversial” legislation]

No. 2004-9 – Committees – Legislative Review/Interpretations Committee

Eliminates the NCAA Division I Academics/Eligibility/Compliance Cabinet Subcommittee on Legislative Review/Interpretation (LRIS) and establishes a stand-alone committee reporting to the Management Council.

Effective Date: Immediately (August 5, 2004) [Adopted as “noncontroversial” legislation]

Eligibility

No. 2004-4 – Eligibility – Progress-Toward-Degree Requirements – Hours Earned or Accepted for Degree Credit – Six-Hour Requirement

Permits a student-athlete in his or her final academic year of his or her designated degree program to use credits acceptable toward any of the institution’s degree programs to satisfy the six-hour requirement.

Effective Date: Immediately (August 5, 2004) [Adopted as “noncontroversial” legislation]

No. 2004-24 – Eligibility – General Eligibility Requirements – Drug Testing Consent Form

Specifies that in sports in which the Association conducts year-round drug testing, the drug-testing consent form must be completed and signed prior to practice or competition, or before the Monday of the fourth week of classes (whichever occurs first).

Effective Date: Immediately (August 5, 2004) [Adopted as “noncontroversial” legislation]

No. 2004-26 – Eligibility – Restitution for Receipt of Improper Benefits and De Minimus Violations

Specifies circumstances in which an institution is not required to declare ineligible and seek reinstatement on behalf of an individual (i.e., prospective or enrolled student-athlete) who received an improper benefit, provided the individual repays the value of the improper benefit; further, specifies circumstances in which a de minimus violation will not render a prospective or enrolled student-athlete ineligible while retaining the stipulation that such a violation shall be considered a violation committed by the institution.

Effective Date: Immediately (August 5, 2004) [Adopted as “emergency” legislation]

Membership

No. 2002-93 (as amended) – Membership – Division I-A Membership Requirements – Restricted Membership

Specifies that failure to comply with any of the Division I-A requirements shall result in the institution receiving notice of its compliance and that any further noncompliance with the Division I-A criteria within a ten-year period shall cause the institution to be placed in restricted membership and ineligible for postseason football competition.

Effective Date: August 1, 2004

No. 2004-23 – Institutional Control – Budgetary Control – Financial Audit

Specifies that all expenses and revenues for or on behalf of a Division I member institution's intercollegiate athletics program, including those by any affiliated or outside organizations shall be subject to reporting on an annual basis under procedures approved by the Division I membership; further, eliminates the exception currently available to member institutions with an athletics operating budget of less than \$300,000.

Effective Date: Immediately (August 5, 2004) [Adopted as "noncontroversial" legislation]

No. 2004-100 – Membership – Division I-A Attendance Requirement – Certified Audit

Permits Division I-A institutions to use internal auditors to verify compliance with the Division I-A football attendance requirements.

Effective Date: Immediately (August 5, 2004) [Adopted as "noncontroversial" legislation]

No. 2004-101 – Membership – Provisional, Reclassifying and Multidivision Orientation Sessions – Chief Executive Office (CEO) Attendance

Specifies that a chief executive officer (CEO) may appoint a substitute with executive status at the institution to attend the required orientation sessions.

Effective Date: Immediately (August 5, 2004) [Adopted as "noncontroversial" legislation]

Recruiting

No. 2004-92 – Recruiting – Official Visits – Institutional Policies

Requires an institution to establish written departmental policies related to official visits that apply to prospects, student hosts, coaches and other athletics administrators and that are approved by the institution's chief executive officer and kept on file at the institution and conference office; further, specifies that an institution is responsible for the development and enforcement of appropriate policies and penalties regarding specified areas as identified by the NCAA Division I Board of Directors; in addition, requires an institution to have its policies evaluated by an outside entity (e.g., conference office) once every four years; finally, specifies that the institution may be held accountable through the NCAA enforcement program for activities that clearly demonstrate disregard for its stated policies.

Effective Date: Immediately (August 5, 2004) [Policies must be in place prior to the institution providing any official visits for the 2004-05 academic year, and thereafter, and subject to final approval by the conference office not later than December 1, 2004] [Adopted as "emergency" legislation]

No. 2004-93 – Recruiting – Official Visits – Air Transportation

Specifies that an institution that provides air transportation to a prospect to and from an official visit must use commercial transportation at coach-class airfare with no upgrades.

Effective Date: Immediately (August 5, 2004) [Adopted as "emergency" legislation]

No. 2004-94 – Recruiting – Official Visit – Campus Transportation

Specifies that an institution that transports a prospect (and those accompanying the prospect) around campus during an official visit must use an institutional vehicle normally used to transport prospective students while visiting the institution's campus; further, permits coaching staff members or student hosts to use personal vehicles to transport a prospect (and those accompanying the prospect) around campus during an official visit.

Effective Date: Immediately (August 5, 2004) [Adopted as "emergency" legislation]

No. 2004-95 – Recruiting – Official Visits – Meals and Lodging

Specifies that during an official visit, an institution must house a prospect (and the prospect's parents or legal guardians) in standard lodging that does not include special accessories (e.g., jacuzzis, suites) that are not available generally to all guests residing at the establishment and must provide standard meals comparable to meals provided to student-athletes during the academic year; further, specifies that an institution also may provide a prospect (and the prospect's parents or legal guardians) a reasonable snack (e.g., pizza, hamburger) in addition to the three meals.

Effective Date: Immediately (August 5, 2004) [Adopted as "emergency" legislation]

No. 2004-96 – Recruiting – Official and Unofficial Visits – Student Hosts

Specifies that students who host prospects during either official or unofficial visits must be either current student-athletes or students designated in a manner consistent with the institution's policy for providing campus visits or tours to prospective students generally.

Effective Date: Immediately (August 5, 2004) [Adopted as "emergency" legislation]

No. 2004-97 – Recruiting – Official Visit – Personalized Recruiting Aids

Prohibits an institution from arranging miscellaneous, personalized recruiting aids (e.g., personalized jerseys, personalized audio/video scoreboard presentations) and from engaging in any game-day simulations during a prospect's official or unofficial visit.

Effective Date: Immediately (August 5, 2004) [Adopted as "emergency" legislation]

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 more than 150 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; and Tom Evans, general counsel to several Division I and II institutions. 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:

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