

NCAA Division I Proposal No. 2017-108
Question & Answer Document

The following questions and answers are designed to assist the NCAA Division I membership in understanding the application of NCAA Division I Proposal No. 2017-108.

Question No. 1: How does the proposal differ from the current legislation impacting the initiating the four-year transfer process?

Answer: The adoption of Proposal No. 2017-108 would:

- a. Replace the existing permission to contact process with a written notification process initiated by the student-athlete.
- b. Decouple the opportunity for a student-athlete to receive athletics aid at a subsequent Division I institution from the transfer process.
- c. Add impermissible recruiting contact with a Division I four-year transfer student-athlete to the list of examples of possible Level II violations.
- d. Establish an NCAA Transfer Portal to assist student-athletes and institutions with the notification of transfer process and provide an official date after which permissible recruiting contacts may occur.

Question No. 2: If adopted, when would the new notification-based process go into effect?

Answer: Division I student-athletes would first be able to utilize the notification of transfer process to initiate transfer October 15, 2018.

Notification of Transfer Process.

Question No. 3: When may a student-athlete provide a written notification of transfer to his or her current institution?

Answer: A student-athlete may initiate the notification of transfer process by providing his or her institution with written notification of transfer at any time.

Question No. 4: Does a student-athlete have to initiate the notification of transfer process if he or she decides to transfer prior to the first contest or date of competition?

Answer: Yes.

- Question No. 5:** May a student-athlete still have his or her academic record evaluated by other institutions' admissions offices prior to providing written notification of transfer?
- Answer:** Yes.
- Question No. 6:** Is an institution required to maintain written policies and procedures regarding notification of transfer?
- Answer:** Yes. An institution is required to provide a description of services and benefits that will or will not be provided to a student-athlete who gives his or her written notification of transfer.
- Question No. 7:** May an institution require a student-athlete to meet with an institutional staff member (e.g., coach, director of athletics) before his or her name is entered into the national transfer portal?
- Answer:** Yes. An institution may incorporate into its written transfer policies a requirement that communication with a specific individual occurs as a part of initiating the notification of transfer process; however, the institution is required to enter the student-athlete's information into the national transfer portal within two business days of receipt of a written notification of transfer from the student-athlete.
- Question No. 8:** Once a student-athlete submits his or her written notification of transfer to the appropriate institutional staff member at their current institution, when may he or she begin contacting other institutions about transfer?
- Answer:** Otherwise permissible recruiting contact may begin as soon as the student-athlete's information is entered into the NCAA Transfer Portal, which must occur within two business days.
- Question No. 9:** Is an institution required to report a violation if it fails to post the student-athlete's notification of transfer information into the NCAA Transfer Portal within two business days?
- Answer:** Yes, the institution must self-report an institutional violation.
- Question No. 10:** What happens if impermissible recruiting contacts by another institution or its representatives of athletics interests are found to have occurred prior to a student-athlete's information being entered into the NCAA Transfer Portal?
- Answer:** Certain violations of the notification of transfer legislation may constitute a significant breach of conduct as it relates to the NCAA infractions process.

Question No. 11: If a student-athlete is found to have engaged in impermissible recruiting contacts with an institution to which he or she transferred, how is his or her eligibility impacted?

Answer: If a student-athlete engages in impermissible recruiting contacts with an institution, he or she becomes ineligible to represent that institution in intercollegiate athletics. The student-athlete's eligibility may be restored if circumstances clearly warrant restoration. (See NCAA Bylaw 13.01.1.)

Question No. 12: How does notification of transfer impact a student-athlete's opportunity to receive athletics aid at a subsequent Division I institution?

Answer: The notification of transfer process does not impact a student-athlete's eligibility for athletics aid at another Division I institution.

Question No. 13: How long does a student-athlete remain a prospective student-athlete for purposes of recruiting legislation after providing his or her institution written notification of transfer?

Answer: The student-athlete's notification of transfer expires at the time in which he or she withdraws the notification or begins classes at his or her original institution or another institution during the subsequent academic year.

NCAA Transfer Portal.

Question No. 14: How will the NCAA Transfer Portal work?

Answer: The NCAA Transfer Portal will facilitate the initiation of the transfer process through the following mechanisms:

- a. An institution's compliance staff enters the student-athlete's general information into the notification of transfer tab within two business days.
- b. Immediately following submission, automatic alerts are sent to the student-athlete and selected institutional staff (e.g., director of athletics, compliance, faculty athletics representative, etc.).
- c. The student-athlete's notification of transfer information is posted with a date stamp record, after which permissible recruiting conversations may begin.
- d. The student-athlete's notification of transfer information becomes searchable by other institutions, to confirm that permissible recruiting contacts may occur.

- e. The institution subsequently enters and periodically updates, if necessary, the student-athlete's typical tracer form information regarding eligibility and participation history.
- f. If the student-athlete transfers or remains enrolled at the original institution during the subsequent academic year, the student-athlete's notification of transfer information will be archived.

Question No. 15: Will student-athlete information already provided to the NCAA via other channels and processes (e.g., NCAA Eligibility Center, National Letter of Intent) be integrated into the information required in the NCAA Transfer Portal.

Answer: Yes. Student-athlete information that is already available will automatically be integrated via the student-athlete's NCAA ID.

Question No. 16: May a student-athlete input his or her own notification of transfer information into the NCAA Transfer Portal?

Answer: No. The institution should designate an institutional staff member or members [e.g., compliance administrator(s)] with the authority to enter a student-athlete's notification of transfer.

Question No. 17: If a student-athlete knows where he or she intends to transfer, may he or she withdraw his or her information from the NCAA Transfer Portal?

Answer: Once the student-athlete has made a decision regarding where he or she will transfer, he or she may request that the NCAA Transfer Portal information be updated to indicate that he or she does not or no longer wants to be contacted by other institutions.

Financial Aid Implications (Proposal No. 2018-6 or 2018-7).

Question No. 18: How will a student-athlete's athletics aid agreement be impacted at the current institution once he or she provides written notification of transfer?

Answer: If either Proposal No. 2018-6 or 2018-7 is adopted by the autonomy conferences, receipt of a student-athlete's written notification of transfer will become a permissible basis to reduce or cancel his or her athletics aid during the period of award or reduce or not renew his or her athletics aid for the following academic term or terms, consistent with the parameters specified in the respective proposals.

Enforcement: Impermissible Contact and “Tampering” Violation.

Question No. 19: How does the enforcement staff view its role in cases of impermissible contact with other Division I four-year student-athletes?

Answer: Please see the following letter from vice president of enforcement, Jon Duncan.



MEMORANDUM

August 14, 2017

TO: NCAA Division I Council Transfer Working Group.

FROM: Jonathan F. Duncan
Vice President of Enforcement.

SUBJECT: Impermissible Contact and "Tampering" Violations – NCAA Bylaw 13.1.1.3.

The enforcement staff receives and processes numerous impermissible contact violations each year, including instances of contact with enrolled student-athletes who ultimately transfer. However, not every impermissible contact involving a transfer student-athlete is considered "tampering," which makes predetermining violation levels or penalties very difficult. As in other contexts, the enforcement staff looks at the specific facts of each case when making decisions about violation levels and potential penalties.

Tampering is a Very Serious Allegation

True tampering violations occur when a coach attempts to "poach" a student-athlete from another four-year institution. Although this may occur with increasing frequency, the enforcement staff does not receive information of this nature regularly. When we do, we treat these situations very seriously. In fact, most are investigated and processed as Level II (major) violations. See University of Mississippi (October 7, 2016) and Sam Houston State (June 20, 2017) public infractions reports. In those cases, the institutions' coaches actively recruited student-athletes from other four-year institutions in an effort to secure their transfer. The enforcement staff viewed those actions as significant violations and alleged them as Level II (major) violations. The NCAA Division I Committee on Infractions agreed and prescribed appropriate and significant penalties. Even if a tampering violation were to be processed as Level III, significant penalties would be appropriate, including recruiting restrictions and possible suspension of the involved coaches, among other penalties.

Moving forward, the enforcement staff will continue to treat tampering scenarios as serious violations. For example, if we receive information that an institution maintains a "whiteboard" (traditional or virtual) of potential graduate or undergraduate transfers, and reaches out to those individuals, we will investigate aggressively. Similarly, we will be very interested in facts suggesting that a program is impermissibly engaging with a third party to discuss the possible transfer of a student-athlete. If our staff is able to substantiate these or similar occurrences, we will present them to the appropriate Committee on Infractions as Level I, II or major allegations.

While the enforcement staff is comfortable sharing our approach in this memorandum and beyond, we do not believe it is advisable to legislate the level of particular bylaw violations. More specifically, we would counsel against inserting an asterisk by certain bylaws in the NCAA Manual

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indicating that violations of the bylaw are predetermined to be a particular level. Perhaps a better approach would be to explore ways to communicate the contents of this memorandum to a broader audience. I would be interested to hear thoughts from this group about how messaging around this important topic can be strengthened. If this group feels strongly about legislative action, and in the spirit of brainstorming, another approach could be to consider adding tampering to the list in NCAA Bylaw 19.1.2 of behaviors that are presumptively Level II.

Most Transfers are not True Tampering

Not all instances of perceived tampering are true tampering. In fact, more frequently, the enforcement staff receives information about less significant impermissible contact violations. The vast majority of Bylaw 13.1.1.3 impermissible contact violations we see are isolated and limited contacts initiated by a four-year college prospective student-athlete prior to receiving permission to contact. In most cases, the student-athlete has a pre-existing relationship with the coach and reaches out unprompted. Incidentally, this can create an awkward situation for a coach who is mindful of NCAA rules and who makes a good-faith effort to terminate the conversation. Individual schools may provide guidance for how a coach should respond to unprompted contact, but I am not aware of broader best practices or recommendations. Perhaps it would be appropriate for this group to give attention to this common scenario.

While less serious than aggressive tampering or poaching, these contacts are violations and the enforcement staff normally processes them as Level III. In addition, penalties typically are prescribed for the institution and coaching staff for these violations, depending on who initiated the contact, the number of contacts, etc. To minimize the risk and impact of these violations, we would advise a coach to discourage such contacts and, if contact nevertheless occurs, to disengage as quickly as possible and report the encounter to compliance.

Conclusion

The enforcement staff shares the membership's concerns about tampering with enrolled student-athletes. We will continue treating these as serious violations, and we look forward to additional discussions about addressing and curbing this practice in intercollegiate athletics.

JFD:ajh