A G E N D A

National Collegiate Athletic Association

Division I Amateurism Cabinet

Hyatt Regency San Antonio
San Antonio, Texas

February 19 and 20, 2009

1. Opening remarks and review of schedule. [Supplement No. 1]

2. Review of September 23 and 24, 2008, Division I Amateurism Cabinet meeting report. [Supplement No. 2]

3. Guiding principles. [Supplement No. 3]

4. Review of legislative proposals. [Supplement No. 4]

5. Definition of professional team.

    a. Considerations for possible legislative change. [Supplement No. 5-a]

    b. Case studies from the Eligibility Center. [Supplement No. 5-b]

6. Eligibility Center report.

    a. General update.

    b. Penalty cases update.

    c. Policies and procedures.

    d. Current challenges and possible solutions.

        i. Actual and necessary expense valuations under Bylaw 12.01.4. [Supplement No. 6]

7. Student-athlete likeness issue. [Supplement Nos. 7-a and 7-b]

8. Review of January 16, 2009, Division I Communications and Coordination Committee report. [Supplement No. 8]

9. Review of Division I General Amateurism and Eligibility Form for International and Select Student-Athletes. [Supplement No. 9]

10. National Hockey League Scouting Combine. [Supplement No. 10]

11. Amateurism Fact-Finding Appeals Committee. [Supplement No. 11]

12. Election of vice chair.

13. Summary of key items and takeaways.

14. News articles. [Supplement No. 12]

15. Educational documents.

    a. Football. [Supplement No. 13-a]

    b. Men's Ice Hockey. [Supplement No. 13-b]

    c. Men's Soccer. [Supplement No. 13-c]

16. Other business.

17. Future meeting dates.

    a. June 22 and 23, 2009, NCAA National Office, Indianapolis, Indiana

    b. September 24 and 25, 2009, NCAA National Office, Indianapolis, Indiana

18. Adjournment.

Schedule for February 19 and 20, 2009, Meeting of the Division I Amateurism Cabinet

Wednesday, February 18		**Meeting Room**
Cabinet members arrive in San Antonio - dinner on your own.		
Thursday, February 19		
Breakfast	8 to 8:30 a.m.	Live Oak
Cabinet meeting	8:30 a.m. to 12 p.m.	Live Oak
Lunch	12 to 1 p.m.	Pecos
Cabinet meeting	1 p.m. to 5 p.m.	Live Oak
Dinner on your own.		
Friday, February 20		
Breakfast	8 to 8:30 a.m.	Live Oak
Cabinet meeting	8:30 a.m. to 12 p.m.	Live Oak

REPORT OF THE NCAA DIVISION I AMATEURISM CABINET SEPTEMBER 23-24, 2008, MEETING

INFORMATIONAL ITEMS.

1. **Legislative – Comments on Proposals to be initially considered by the Legislative Council in October 2008.**

   a. **Proposal No. 2008-13 – Amateurism – Exception For Prize Money For Student-Athletes – Outside The Playing Season During An Official Vacation Period – Individual Sports.** The cabinet supports Proposal No. 2008-13, which would permit, in individual sports, a student-athlete to accept prize money based on his or her place finish or performance in an open athletics event (an event that is not invitation only), provided the competition occurs outside the institution's declared playing and practice season during any official vacation period and the prize money does not exceed actual and necessary expenses and is provided only by the sponsor of the open event.

2. **Nonlegislative.**

   a. **NCAA Division I governance structure.** The staff conducted a review of the changes to the NCAA Division I governance structure for the cabinet. During this discussion, the staff reviewed the three-to-five year national office strategy and issues on the Division I agenda.

   b. **Discussion of Vice Chair.** The cabinet was informed that pursuant to the new Division I governance structure, each cabinet has discretion to appoint a vice chair if it is determined that the assignment of such a position would be helpful to the cabinet's work. The cabinet made no decision at this time on a vice chair given that this was the first meeting of this group.

   c. **NCAA Division I Communications and Coordination Committee report.** The cabinet reviewed the August 27, 2008, report from the Division I Communications and Coordination Committee. The cabinet was informed by the chair that enhanced communication is intended to be one of the hallmarks of the new Division I governance structure. Also the committee will help coordinate consideration of issues and legislative concepts among the various Division I governance bodies.

   d. **Review of NCAA Division I Bylaw 12 legislation.** The staff led an educational review of Bylaw 12 legislation and interpretations for the cabinet. The education session was primarily focused on the legislation pertaining to the definition of a professional team, competition with professionals and other activities that would cause an individual to lose amateur status and eligibility for Division I intercollegiate competition. In addition, the staff reviewed legislation and issues surrounding agents and advisors.

e. **Informational Session with Eligibility Center and Student-Athlete Reinstatement Staff.** The NCAA Eligibility Center staff provided an overview of the amateurism certification process (ACP) and reinstatement process for prospective student-athletes subject to penalty. The staff discussed the challenges that they encounter when certifying thousands of prospective student-athletes; specifically the difficulty of certifying international student-athletes. The ACP shared information relating to the most penalized sports, the bylaws most frequently violated and the most common Division I penalties resulting from such violations.

f. **Update on the Task Force on Commercial Activity in Intercollegiate Athletics.** Kevin Lennon, vice president for membership services, and Wally Renfro, vice president and senior advisor to President Myles Brand, provided the cabinet an update on the work of the Task Force. The cabinet reviewed a historic narrative entitled "Bringing Balance to Commercial Activity in Intercollegiate Athletics," which was originally prepared to assist the Task Force in its review of commercial activities associated with intercollegiate athletics with the rest of higher education. The narrative was reviewed with the cabinet as an educational tool to provide historical context to facilitate the cabinet's future discussions on issues relating to commercial activities. The cabinet asked the staff to prepare an educational review of current promotional activities legislation for its next in-person meeting.

g. **Fantasy League.** The cabinet received a report about the recent ruling by the 8th Circuit Federal Court of Appeals in the case of CSC Distrib. And Mkting. Inc. v. Major League Baseball Advanced Media L.P., in which the court applied Missouri state law to professional fantasy leagues, has lead fantasy sports games distributors to conclude that offering a college football fantasy game that includes names and game statistics of college student-athletes would be consistent with the ruling. The cabinet was informed of a July 2008 NCAA rule interpretation which states the use of a student-athlete's name in connection with a fantasy sports game even when there is not an entry fee or prize associated is a violation of NCAA bylaws. Additional information and guidance will be provided by the Task Force in the future.

Identification of Future Agenda Items.

a. Definition of Professional Team and Competition with Professionals. The cabinet discussed the definition of a professional team and how one may become ineligible based on benefits received by a teammate as well as issues related to competition with professionals. The cabinet was in agreement that changes to this legislation were warranted. Specifically, the cabinet believes that the current definition of a professional team is too broad and unfairly penalizes prospective student-athletes who never intended to professionalize themselves (e.g. never received more than actual and necessary expenses)

and for whom sports has been an avocation. The cabinet agreed to consider alternatives to this legislation.

b. The cabinet identified the issue of agents and advisors interaction with prospective student-athletes and student-athletes and the potential problems that can jeopardize one's eligibility. The staff disseminated new postenrollment agent and disability insurance educational materials that are available to the membership. The cabinet agreed to examine this issue at future meetings.

c. The cabinet participated in a discussion of amateurism certification challenges facing institutions and the Eligibility Center. The challenges impact institutional recruiting and certification efforts and the Eligibility Center's ability to process certifications in an efficient and timely manner. The cabinet discussed numerous concepts that might mitigate the challenges and agreed to discuss the concepts in greater detail during its February 2009 meeting.

Cabinet Chair: *Mike Rogers, Baylor University, Big 12 Conference*
Staff Liaison(s): *Rachel Newman Baker, Agent, Gambling and Amateurism Activities*
Angie Cretors, Agent, Gambling and Amateurism Activities
Geoff Silver, Membership Services

GUIDING PRINCIPLES FOR THE AMATEURISM CABINET

Amateurism Cabinet's Draft Principles:

- Ensure that legislation reinforces that student participation in intercollegiate athletics is an avocation, and student-athletes should be protected from exploitation by professional and commercial enterprises.

- Student-athletes shall be an integral part of the student-body and their participation should be motivated primarily by education and by the physical, mental and social benefits to be derived.

- Minimize missed class time, and all promotions shall be consistent with the values of higher education.

- Ensure legislation is written in a simple, clear and enforceable manner.

- Consider the amount of time legislation has been in effect before supporting a legislative change.

- Consider the impact of proposals on institutional resources and institutional staff members.

- As appropriate, ensure feedback has been solicited from external groups.

- Consider whether or not sport-specific legislation is warranted or whether a proposed legislation can/should be expanded to other sports.

- Examine potential unintended consequences when reviewing legislation.

AMATEURISM CABINET JURISDICTION

Oversight of amateurism issues pertaining to the Eligibility Center. Eligibility Center staff and student-athlete reinstatement staff reports each cabinet meeting and receives guidance.

Amateurism Issues:

- Pay/prize money;
- Involve professional teams;
- Use of agents/advisors;
- Employment; and
- Promotions.

Priority agenda items:

- Agents and advisors interaction with prospects and student-athletes (likeness issue).
- The challenges relating to amateurism certification.
- The definition of a professional team.

Chair: Mike Rogers, faculty athletics representative, Baylor University.

LEGISLATIVE PROPOSALS

2008-13-A	AMATEURISM -- EXCEPTION FOR PRIZE MONEY FOR STUDENT-ATHLETES -- OUTSIDE THE PLAYING SEASON DURING AN OFFICIAL VACATION PERIOD -- INDIVIDUAL SPORTS	Pacific-10 Conference.	August 1, 2009	In individual sports, to permit a student-athlete to accept prize money based on his or her place finish or performance in an open athletics event (an event that is not invitation only), provided the competition occurs outside the institution's declared playing and practice season during any official vacation period and the prize money does not exceed actual and necessary expenses and is provided only by the sponsor of the open event.	Approved an amendment to delay the effective date to August 1, 2009. Defeated, as amended.
2008-13-B	AMATEURISM -- EXCEPTION FOR PRIZE MONEY FOR STUDENT-ATHLETES -- OUTSIDE THE PLAYING SEASON DURING THE SUMMER VACATION PERIOD -- INDIVIDUAL SPORTS	Big Ten Conference.	Immediate	In individual sports, to permit a student-athlete to accept prize money based on his or her place finish or performance in an open athletics event (an event that is not invitation only), provided the competition occurs outside the institution's declared playing and practice season during the institution's summer vacation period and the prize money does not exceed actual and necessary expenses and is provided only by the sponsor of the open event.	Forwarded for membership review and comment.

LEGISLATIVE PROPOSALS

2008-33	ELIGIBILITY -- SEASONS OF COMPETITION -- FIVE-YEAR RULE -- CRITERIA FOR DETERMINING SEASON OF ELIGIBILITY -- DELAYED ENROLLMENT -- WOMEN'S VOLLEYBALL	NCAA Division I Academics/Eligibility/Compliance Cabinet (Subcommittee on Continuing Eligibility).	August 1, 2010, for student-athletes initially enrolling full time in a collegiate institution on or after August 1, 2010.	In women's volleyball, to specify that a student-athlete who does not initially enroll full time in a collegiate institution within one year following the high school graduation date of the student-athlete's class and participates in organized events after the one-year period, shall be charged with a season of intercollegiate competition for each year of participation and shall fulfill an academic year in residence on matriculation at the certifying institution before being eligible to represent the institution in intercollegiate competition.	Adopted.
2008-79	AMATEURISM -- INVOLVEMENT WITH PROFESSIONAL TEAMS -- PROFESSIONAL BASKETBALL DRAFT -- FOUR-YEAR COLLEGE STUDENT-ATHLETE -- MEN'S BASKETBALL	NCAA Division I Board of Directors.	August 1, 2009	In men's basketball, to specify that an enrolled student-athlete may enter a professional league's draft one time during his collegiate career without jeopardizing eligibility in the sport, provided the student-athlete requests that his name be removed from the draft list and declares his intent to resume intercollegiate participation by the end of the day prior to the first day of the spring National Letter of Intent signing period for the applicable year; the student-athlete's declaration of intent is submitted in writing to the institution's director of athletics; and the student-athlete is not drafted.	Forwarded for membership review and comment.

NCAA Bylaw 12 Amateurism Regulations –Definition of Professional Team Considerations for Possible Legislative Change

Background

At its September 2008 meeting, the cabinet reviewed the current definition of a professional athletics team (Bylaw 12.02.4) and expressed strong support for a legislative change that would permit individuals to participate with others who are receiving more than actual and necessary expenses for participation on a sports team as long as that individual does not receive more than expenses. During its December 2, 2008, conference call, the cabinet reviewed a draft version of Bylaw 12 that reflected this change. After reviewing the draft, cabinet members expressed two primary concerns: 1) the ability of student-athletes to engage in high-level competition with professionals; and 2) the ability of student-athletes to sign a contract with a professional sports team even if the contract does not provide for compensation beyond the receipt of actual and necessary expenses. Generally speaking, cabinet members were less concerned with these issues as they relate to prospective student-athletes. Consistent with these discussions, below are two alternatives for possible legislative changes to Bylaw 12.

Option One

In an effort to deregulate and focus the amateurism bylaws on the individual versus teams, a possible legislative change would result in the following:

1. Permit any individual, prior to and following full-time enrollment at an NCAA Division I institution, to compete on a professional sports team, without jeopardizing his or her amateur status, even if one or more members of the team received more than actual and necessary expenses to compete on the professional sports team.

2. However, an individual's amateur status would be jeopardized if he or she receives more than actual and necessary expenses to compete on the professional sports team.

Rationale and Application

1. With this possible legislative change, an institution would no longer be required to determine whether or not a team is considered professional. Instead, an institution would focus its time and energy on an individual's specific circumstances and eligibility would be assessed for the individual using the threshold of receipt of more than actual and necessary expenses from the sports team.

2. Participation with other individuals receiving more than actual and necessary expenses for participation on a sports team would be permissible.

3. It would be permissible for an individual to sign a contract (pre- and post-enrollment) with a professional sports team; however, the individual's amateurism may be affected if the terms of the contract permit the receipt of more than actual and necessary expenses by the professional sports team.

4. Signing with an agent by any individual would remain impermissible.

   Note: This legislative change would continue to use the principles outlined in the current definition of a professional team to determine what constitutes actual and necessary

expenses. Current outside competition legislation would also continue to apply to student-athletes.

Option Two

In recognition of the preliminary concerns expressed by the cabinet as noted above, an alternative would be to include the following limitations in conjunction with the legislative changes outlined in Option One:

1. Modify the outside competition legislation to specify that, following initial full-time collegiate enrollment, an individual would jeopardize their eligibility by competing on a team that pays any of its players more than actual and necessary expenses.

2. Specify that an individual, following initial full-time collegiate enrollment, may not sign a contract with a team that pays any of its players more than actual and necessary expenses even if the contract does not provide for compensation beyond the provision of expenses.

Rationale and Application

1. This possible change would address the cabinet's preliminary concerns without creating two separate standards of amateurism (i.e., a pre-enrollment standard and a post-enrollment standard).

2. The application of the proposed legislation for prospective student-athletes would remain as outlined in Option One. Following initial full-time collegiate enrollment, however, student-athletes would be held to a different standard and would need to be educated about these limitations by their respective institutions.

3. This approach is not consistent with the concept that individuals should not be penalized (or have their amateur status impacted) due to the actions of their teammates.

Additional Consideration for Options One or Two

In addition to the possible legislative changes above, the cabinet may wish to consider a modification of current legislation relating to prospective student-athletes who delay collegiate enrollment following high school graduation. Under current legislation, in sports other than tennis and swimming and diving, participation by an individual in organized competition during each 12-month period after the individual's 21st birthday and prior to initial full-time collegiate enrollment counts as a season of varsity competition in the sport. Given the potential advantage gained by individuals who compete against and with professional athletes as a result of these proposals, the cabinet could consider additional restrictions to competition following high school graduation and prior to initial collegiate enrollment (e.g., one year "grace period" as opposed to 21st birthday trigger).

REPORT TO THE NCAA AMATEURISM CABINET

Defining the Team Sport Prospective Student-Athlete – 5 Case Studies.

Purpose.

The purpose of the following case studies is to assist the Amateurism Cabinet in further defining the type of athletics experiences and actions that should be considered in furtherance of legislatively capturing what a team sport prospective student-athlete "should look like" (from an amateurism perspective) prior to their initial collegiate enrollment. Please note that all five case studies include the types of Bylaw 12 violations that would be triggered under the current treatment of amateurism legislation.

Case Study No. 1.

- 19-year old men's soccer player.
- Competes while in high school on clearly amateur team sponsored by club that also sponsors clearly professional and "reserve" teams.
- Signed registration form with club that allowed for prospective student-athlete (PSA) to get "called up" to either reserve or pro team(s).
- For three contests, PSA was "called up" to reserve team at the same time professional players were "pulled down" to reserve team.
- PSA was not compensated by club other than minimal expenses related to three reserve team contests.

Certified Penalties: (1) 12.2.3.2 (Competition with Professionals), (2) 12.1.2(c) or 12.2.5 (Professional Contract), (3) 12.1.2(d) (Expenses from Pro Team).

Case Study No. 2.

- 18-year old men's basketball player.
- Competed for two seasons (50 total contests) while in high school (beginning at age 16) on local club team that employs (and compensates above expenses) two former NCAA student-athletes. All other teammates are also local teenagers wishing to avail themselves to the highest level of competition available locally.
- PSA did not sign any contract/agreement with club team.

- PSA was not compensated by club other than travel and/or lodging and/or meal expenses related to competition in the 50 contests.

Certified Penalties: (1) 12.2.3.2 (Competition with Professionals), (2) 12.1.2(d) (Expenses from Professional Team).

Case Study No. 3.

- 20-year old women's tennis player.
- For last three years has competed on Bundesliga (Germany) tennis team which also includes two teammates who are currently ranked in top 100 of world tennis rankings.
- For each of the three seasons, PSA competed in five matches (15 total) during the short five-week season that occurs in July/August.
- PSA did sign required registration form with Bundesliga club each of the three seasons she competed.
- PSA's participation on Bundesliga club team all occurred subsequent to high school graduation.
- PSA was not compensated by club other than travel and/or lodging and/or meal expenses related to competition in the 15 contests and free usage of club team's facilities during each of the three seasons.
- Ranked teammates received match bonus payments, all expenses paid and free use of furnished apartment and automobile during five-week season.

Certified Penalties: (1) 12.2.3.2 (Competition with Professionals), (2) 12.1.2(d) (Expenses from Professionals Team).

Note: that this tennis PSA would also be evaluated for possible prize money (12.1.2.1.5) and Tennis Swimming and Diving legislation (14.2.3.2) concerns.

Case Study No. 4.

- 19-year old men's soccer player.
- While in high school at an academy, PSA signed both a registration of player on scholarship and scholarship agreement with a club team that sponsors the amateur academy team, a mid-level reserve team and professional team.

- While competing on the academy team, PSA was "called up" to compete in six contests on the reserve team with some teammates who were no longer in high school and who were being paid above expenses (causing reserve team to be considered "professional").
- Language in PSA's scholarship agreement allowed for PSA to be "called up" to reserve or professional teams at club team's discretion.
- Scholarship agreement did not explicitly indicate that PSA was a "professional" player and was in furtherance of his continuing education within the British educational system.
- PSA was not compensated by club other than travel and/or lodging and/or meal expenses related to competition in the six contests on the reserve team.

Certified Penalties: (1) 12.2.3.2 (Competition with Professionals), (2) 12.1.2(c) or 12.2.5 (Professional Contract), (3) 12.1.2(d) (Expenses from Professional Team).

Case Study No. 5.

- 20-year old women's volleyball player.
- Has been playing in Chinese National League since 16 years old.
- National League teammates include older members of Chinese National Team that competes in international competition.
- Teammates who also compete on National Team are compensated by both National League team and Chinese Government (for participation on National Team).
- PSA herself was compensated with monthly stipend (minimal by US standards but not by Chinese standards of living) by National League team, as well as all travel and/or lodging and/or meal expenses related to competition.
- All National League teams are affiliated with local "sports schools", where superior athletes (having been identified as such by Chinese Government) are "steered" during teenage years.
- National League participants who also attend a sports school (such as PSA) sign an agreement that defines National League participation requirements.
- All sports-school related educational expenses were paid for by Chinese government.

Certified Penalties: (1) 12.2.3.2 (Competition with Professionals), (2) 12.1.2(c) or 12.2.5 (Professional Contract), (3) 12.1.2(d) (Expenses from Professional Team).

REPORT TO THE NCAA AMATEURISM CABINET

Actual and Necessary Expense Valuations under Bylaw 12.02.4
International Statistical Agencies

Purpose.

This report relates to the actual and necessary expenses for a team as stated in Bylaw 12.02.4 in the NCAA Manual. Its purpose is to summarize research methods as a reasonable and objective resource for establishing "fair market value" calculations, regardless of the locale of the team being evaluated.

Overview.

NCAA Bylaw 12.02.4 states that "A professional team is any organized team that provides any of its players more than actual and necessary expenses for participation on the team, except as otherwise permitted by NCAA legislation….provided the value of these items is commensurate with the fair market value in the locality of the player(s) and is not excessive in nature." Conflicting thoughts on what values to assign to specific expense items is generally *the* critical determination when a team is being evaluated under Bylaw 12.02.4; therefore, being able to establish a reasonable and objective source for proper locality expense valuations would be beneficial to the overall certification process. As we have seen, you can now avail yourself to many sources (e.g. Craigslist) that could provide you with some value for a specific expense item, but very rarely does that mean it is a "fair market" (or a reasonable) value.

After researching numerous methods for evaluating actual and necessary expenses as stated in Bylaw 12.02.4, it was found that the most appropriate method to provide accurate and consistent information is to utilize each country's statistical data provided by the U.S. Census Bureau, the official statistical government agency in the United States. The U.S. Census Bureau web site provides links to official governmental statistical web sites for approximately 200 countries. ***(See Exhibit A, U.S. Census Bureau: Statistical Agencies – International).*** The data provided on these Web sites has been collected and validated by the International Programs Center (IPC), a division of the U.S. Census Bureau which conducts demographic and socioeconomic studies. ***(See Exhibit B, Statistical Agencies (International) e-mail confirmation)***.

International Programs Center.

Funded by federal agencies, international organizations, private businesses, and other governments for over fifty years, the IPC has contributed to the collecting, analyzing and distribution of statistical information with counterpart governments. All of the information is gathered from censuses, surveys and information systems. The IPC has worked in over 100 countries on "designing, planning, and conducting statistical activities that contribute to economic and social development." The IPC makes use of many products and services in its validation of information from international countries. The International Data Base (IDB) is an information resource for the world. It includes single country data, country rankings, tables and world population information. The IPC uses four different software and applications in its research including the Census and Survey Processing System, Integrated Microcomputer Processing System, Population Analysis System and Rural/Urban Projections, all of which must be downloaded to use and view the data.

In addition to its products and services, the IPC makes full use of workshops and training to better educate staff on statistical procedures and information in various countries. Some examples of said workshops are:

- "Planning and Management of Household Surveys" workshop: Prepares statistical office managers to be able to plan, manage and understand survey operations and information.
- "Public Outreach and Marketing of Statistical Services" workshop: A communications expert covers techniques and key messages aimed at building and sustaining relationships between statistical offices and government officials, other international organizations and the public.
- "Improving Data Quality" workshop: Statistical office managers learn to utilize different methods to produce quality data in a timely and efficient manner.
- "Web Site Development" workshop: Educates staff on how to make Web sites as user friendly as possible.

The IPC works directly with various countries throughout these workshops including Serbia, Germany and China, countries that are particularly challenging for the Amateurism Certification Process (ACP) staff to gather relevant information. A total of over 11,000 people have completed long term and short term workshops in Washington D.C. and overseas since 1947. These workshops are provided in a variety of languages and special workshops regarding specific topics related to statistical activities can be developed upon request. ***(See Exhibit C, U.S. Census Bureau: International Programs Catalog of Workshops).***

Accuracy, Consistency, and Efficiency.

This IPC approach to gathering information from countries in which it is available creates consistency and credibility across the board. The U.S. Census Bureau has been preparing estimates and projections of foreign countries for over thirty-five (35) years through data collection and data evaluation provided by the National Statistics Office. The Bureau has routinely updated countries since 1985 as new data have become available. ***(See Exhibit D, U.S. Census Bureau: Estimates and Projections Methodology).*** The international statistical government Web sites contain all necessary information for what the ACP staff refers to as "expense valuation methodology." After researching a cross section of the approximate 200 countries, there seems to be a common methodology present in each: surveys. Surveys, whether they are online, poll, telephone or mail-in, prove to be the main source of gathering data within each respective country. While not all surveys are generated at the same time per country, most are executed in similar ways both by balanced and random sampling surveys. A balanced sample survey uses constant variables such as businesses, and companies important within the community as participants. A random sample survey is when all members of the population have an equal chance of being selected as participants to complete the survey. These surveys are done monthly, quarterly or yearly, and are then reported to the official statistical governing body, respectively. Average household expenditures including food, lodging and transportation, labor, income, current economic trends and consumer price indices (CPI) are some of the main criteria most applicable to ACP research, and are the types of information these country-specific Web sites provide. Regular use and navigation through the Web sites will provide an overall understanding of each, and institutions would be able to use and make recruiting determinations based on the available information provided by these Web sites.

Country's Statistical Guidelines.

As well as the actual statistical data each Web site offers, information regarding the country's statistical research standards or guidelines is also available. The countries of the European Union follow a "European Statistics Code of Practice" which was recommended to the Commission and adopted by the Statistical Program Committee in 2005 on the grounds of "independence, integrity, and accountability of the national and community statistical authorities." Governance and statistical authorities adhere to all the principles within the Code, making the credibility of information presented by European statistical web sites truthful and accurate. ***(See Exhibit E, European Statistics Code of Practice)***.

Conclusion.

The U.S. Census Bureau has indicated that the information links they post for individual countries have been both evaluated and approved as accurate by its IPC Division. Further, various independent studies have shown that the information provided by these Web sites is accurate and consistent in the research completed by each respective country. Being able to establish a reasonable and agreed upon objective source for proper locality expense valuations will allow a more efficient process whereby an institution and the staff can render faster, and more precise, determinations for certification.

Bylaw 12.02.4
Actual and Necessary Expense Valuations

Use of Data for International Statistical Agencies

Bylaw 12.02.4 (a): Professional Team

- Any team that pays a player more than the value of "actual and necessary expenses."
  - Expenses are defined in the Bylaw.
  - Determination is whether value of compensation package is less than, greater than, or equal to the value of expenses.
- Bylaw provides guidance regarding value of expenses.
  - Expenses must be "commensurate with fair market value in locality."
  - Expenses must not be "excessive in nature."

What does it mean to be within fair market value and not excessive in nature?

- No legislated valuation methodology.
- No consistent methodology applied in past by departments within national office and member institutions.
- Every case approached on a country-by-country basis.

Data for International Statistical Agencies

- Most countries have an official statistical agency that gathers and reports expenses and income data.
- U.S. Census Bureau Web site links to 200 countries' statistical agency Web sites.
- Benefits of use:
  - Accuracy
  - Consistency
  - Efficiency

International Statistical Agencies: Accuracy

- Data is gathered, analyzed, and reported by each country.
  - Not theoretical or speculative.
  - Agency staff educated through workshops to ensure uniformity of data collection.
- Reported data is validated by U.S. Census Bureau.
  - Continually update list of countries on Web site link when new, validated information becomes available.
  - Before a country is listed, data collection and data evaluation from surveys, censuses, and statistics given by Nation Statistics Offices are reviewed and evaluated by U.S. Census Bureau.

International Statistical Agencies: Consistency

- Commonality in methodology – e.g., European Union continually follows a strict "European Statistics Code of Practice" in research standards and methods.
- Similar sampling timeframe – monthly, quarterly or yearly.
- Majority include 12.02.4 expense data.
- Consistency across reviews – uniform approach by Amateurism Certification Process staff and member institutions.

International Statistical Agencies: Efficiency

- Expense information readily available in most countries.
- Once analysis is conducted in a country it can aid in later reviews providing faster and more precise determinations for certification.
- Institutions can use and make recruiting determinations based on information available.
- Can be used in other Bylaw 12 expense analyses.

Final Report of the NCAA Task Force on Commercial Activity in Division I Intercollegiate Athletics

Preamble.

In compliance with the charge of the NCAA Division I Board of Directors, the following is a report of the Board-appointed Task Force on Commercial Activity in Intercollegiate Athletics. It is submitted to the Board with the recommendation that it be forwarded to the Division I Leadership Council for a broad discussion, thorough vetting both within the governance structure and the membership, and the proposal of implementing legislation where clear parameters are apparent or of best practices where informed judgment and flexibility are favored. On the following pages are a discussion of the tension that exists in the higher education community and beyond regarding the nature of commercial activity in intercollegiate athletics; a historic perspective that explores the ambivalence among the concepts and practices of amateurism, professionalism and commercialism; the task force charge outlining the group's anticipated work product; and a set of recommended principles and guidelines that emerged from three in-person meetings of the group and numerous e-mail exchanges.

It is the overarching conclusion of the task force that for most Division I intercollegiate athletics programs, and for a growing number of other athletics programs, the need for revenue gained through commercial activity associated with intercollegiate athletics (including ticket sales, sale of merchandize, royalties from the sale of media rights, and the development of corporate sponsorships) is as essential to the successful future of the enterprise as is the continued integration of intercollegiate athletics with the values of higher education. While this is disheartening and even contradictory to some in higher education and public who wish intercollegiate athletics to be devoid of any and all commercial influences, commercially generated revenue is both necessary and appropriate as a means for holding the subsidization of athletics from a university's general funds within such bounds that academic mission and programs are not threatened. Indeed, revenue to offset the cost of equipment, personnel, travel and facilities acquired through commercial efforts is as historic as college sports itself.

However, there are two conditions commercial activity must meet to avoid compromising the relationship between intercollegiate athletics as an educational component of the university experience and higher education itself. First, commercial activity cannot abridge the principle of amateurism as applied to student-athletes, including their exploitation by commercial and professional interests. Second, it must comport with the values of higher education.

In the briefest of terms, there are also two conditions for the maintenance of amateurism as understood in the American collegiate model of athletics: (1) Student-athletes cannot financially benefit from their participation in intercollegiate athletics beyond grants-in-aid and other forms

of approved support allowed by NCAA regulations to promote student-athlete wellbeing, and (2) their motivation to play college sports should come primarily from the educational and physical benefits of participation. While these are the conditions *student-athletes* must meet to be amateurs, the principle of amateurism in the collegiate model also includes the responsibility of the NCAA, conferences and member institutions to protect student-athletes from exploitation by commercial and professional interests. In essence, the Association and its member conferences and institutions are charged with ensuring that student-athletes are not taken advantage of in ways that would violate their amateur standing or that threaten the educational advantage gained through participation.

As straight forward as all these conditions appear to be, they can prove to be elusive in their implementation, especially with regard to the increased association of commercial entities with intercollegiate athletics, the expansion of media platforms ranging from print to the Internet and "new media" initiatives, and the growth of intercollegiate athletics as programming inventory for various electronic media. A broadening in the relationship between higher education, intercollegiate athletics and commercial entities is not necessarily an issue for concern if the relationship respects the primacy of collegiate athletics as students, is reciprocal in nature, and the values of higher education are not abridged.

To that end, the NCAA Task Force on Commercial Activity in Intercollegiate Athletics in Division I was formed in June 2008 and charged to review the current rules and applications regarding such activity and to recommend a set of principles for consideration by the Association's governing structure that would guide future applications. Specifically, the task force was asked to find a balance point between the abandonment of all commercial activity in an effort to achieve an unrealistic sense of purity and the engagement of such crass commercialism that the differences that demarcate the collegiate and professional models of sport are lost.

Historic Perspective.

Intercollegiate athletics in the United States – a phenomenon unique to America – is a little more than 150 years old. The first recorded athletics contest between two institutions of higher education was conducted in 1852 and predates both the creation of the NCAA in 1906 and the development of national policy through NCAA regulation in 1921. Ironically, that first contest, a rowing regatta between the men of Harvard and the men of Yale August 3, 1852, does not predate the introduction of commercial activity associated with college sports. Indeed, the race came about at the urging of James Elkins, superintendent of the Boston, Concord and Montreal

Railroad in order to sell tickets to fans to travel and watch the contest. It was a commercial venture on the part of the railroad and its enterprising superintendent who understood the attraction of an athletics event between two of America's great institutions of higher education. Soon, stands at rowing regattas were being constructed "for those willing to pay 50 cents for a seat." Local businesses were advertising their services to fans and boosters. As other sports were added to the opportunities for intercollegiate athletics, the interest in tapping commercial resources to offset the cost of equipment, travel, room and board, and facilities – while often underwritten by the participants themselves – was increasing. Before the turn of the new century, running tracks were being constructed for collegiate competition; and soon after the dawning of the 20th century, the first football stadiums were built on campus. Where campus facilities did not exist, communities were vying for the opportunity to host intercollegiate events for the economic impact such contests would have on their businesses. The interest among students to participate in athletics against other students, the interest among fans and spectators to watch and root for their favorite sides, the interest of the media to report the results as news, and the interest of commercial entities to associate with and profit from the contests was fast established as a fact of the campus athletics experience and the American culture.

There is a temptation in the modern era of intercollegiate athletics to perceive that commercial activity is a recent development fostered by television and embraced by athletics administrators to swell coffers, build ever-expanding programs, and increase payrolls for coaches and other personnel. It is true that television has had an enormous impact on the exposure of intercollegiate athletics with the growing need to acquire programming inventory as broadcast platforms have mushroomed. First radio and then television clearly have added to the exposure of what once were regional match-ups so that an entire nation – and indeed, the world – understands the significance of regular-season contests between Michigan and Ohio State, Texas and Oklahoma, Alabama and Auburn, Notre Dame and Southern Cal. In fact, the Internet presents nearly unlimited access for even the smallest intercollegiate programs. But the presence of commercial activity within the context of intercollegiate athletics is as old as the enterprise itself and it is growing. Through marketing and promotion, the hype and drama associated with these games challenge anything that professional sports can offer. Because of the high interest, advertisers and marketers at local, regional and national levels are eager for an association with such events and with the institutions of higher education that sponsor the teams. Depending on the relative competitiveness or circumstances of the games, corporations are willing to pay premium prices for the opportunity to put their products before the eyes of an enormous audience across a broad spectrum of media.

Commercial activity associated with intercollegiate athletics is not new, and it is not going away.

Despite this simple truth, higher education, the media and the general public are ambivalent and confused about the relationship of commercial activity with intercollegiate athletics. Much of the confusion comes from a firm commitment to the principle of amateurism and an ironic lack of understanding of the term that we inherited from England but never embraced in the same way as a class distinction. What worked to set intercollegiate athletics apart at Oxford and Cambridge from professional sports – that the amateur was of a social class that could afford both the time and expense of sport without compensation or reimbursement – has never worked as well in the egalitarian culture of America's institutions of higher education. Indeed, American universities not only opened their doors to 19th century commoners but welcomed them on its athletics teams where the merits of physical talent were desired over economic advantage. The American version of amateurism that developed as athletics increasingly became a part of the student experience on campuses across the country was not a way to keep social classes apart; it was a commitment to the avocational approach to athletics in the university environment as opposed to the vocational approach in professional sports.

So, while the impact of commercial activity and the interests of commercial entities have been welcomed from the beginning – and indeed has helped salve the irritation of faculty and others that athletics financially distracts from the educational mission of the academy – the scale and scope of such activities juxtaposed against a rigid commitment to play without pay for the athletes has never made for a comfortable seat where the two notions can rest side by side. As both practical and imperative as commercial support has been to the creation, rise and expansion of intercollegiate athletics, it has burdened the conscience of all who assume amateurism must first and always be held apart from concerns about money. It is helpful, therefore, to recall that the NCAA's long-ago adopted definition of amateurism as it relates to intercollegiate athletics has almost nothing to say about compensation and everything to say about motivation. The Principle of Amateurism memorialized in the Association's Constitution declares that "participation should be motivated primarily by education and by the physical, mental and social benefits to be derived. Student participation…is an avocation, and (they) should be protected from commercial and professional interests."

The second concept that adds to America's collective confusion about the relationship of commercial activity to intercollegiate athletics is that while participation is to be an avocation for students, college sports as an enterprise is a professional undertaking for everyone else. Furthermore, the generating of revenues to help offset expenses must be guided by the same sound business principles as any commercial entity. When Harvard met Yale in the first rowing contest in 1852 and Princeton traveled to Rutgers for the first intercollegiate football game in 1869, it was the result of students seeking freedom from their 19th Century classrooms. But once

the colors were raised and the pride of victory was contested, it was not long until the professional coach was introduced to improve the chances of winning. Before the establishment of the NCAA in 1906, nearly every sport had coaches who were paid for their expertise. The expansion toward programs with multiple sports lead inevitably to a need for professional management of budgets and schedules, the hiring of coaches and other personnel, the building of facilities to host events, and the development of revenues to pay for the enterprise.

On one hand, such growth of staff, facilities and the need for their management is no different in athletics than for any other activity on campus that is developed in response to need or interest. As the curriculum of higher education in the 18th and 19th century evolved into that of the comprehensive universities of the 20th century, music, journalism and computer science – as examples – were introduced and had to be supported by an infrastructure of personnel, facilities and development. The difference in athletics is the media attention that college sports invited, the public enthusiasm that fans and alumni demonstrated, and the commercial interest that was attracted by both. In addition, the emotional engagement that intercollegiate athletics stimulates, the media and business awareness that follows run so parallel to college sports' professional counterpart that those who view all that pertains to higher education from the viewpoint of the academy are made uncomfortable by the proximity.

The question of whether there should be a connection between higher education-sponsored athletics and the commercial activity that has grown up around such events (regardless of confusion about the propriety of amateurism being under attack or the spreading of professionalism into the infrastructure for college sports) was answered when the first ticket was sold and the first coach was hired. All that has followed is an issue of scale and scope.

To be certain, commercial activity cannot be stripped away from intercollegiate athletics at any level. Higher education requires of college sports programs, as it does of any other component of the campus, that the activity offset at least some of its costs by generating revenue. And as public support and private appreciation for higher education have increasingly experienced a reversal to public appreciation and private support, the need to monetize the assets of an institution and to encourage corporate and private investment in the very basics of the academy, intercollegiate athletics will be pressed more aggressively to develop wider revenue streams through commercial activity. While some in America's colleges and universities have publically lamented the increased commercial nature of the entire campus, it is a fact of 21st century life that institutions of all types will succeed increasingly by their own wits and best efforts to engage the world beyond the campus.

We know from our experiences with media partners and their advertisers that it is not only the popularity of college sports that is attractive. It is also the values that intercollegiate athletics and higher education foster that appeal to marketing and advertising interests. Indeed, if there were no constraints on commercial activity – if colleges and universities were to barter their values (the avocational motivation for athletics participation and the protection of the student-athlete from commercial and professional interests) for a few dollars more – the appeal would be weakened. The attraction of intercollegiate athletics that allows the enterprise to compete favorably with professional sports for media attention and commercial support is not the athletics superiority of the collegiate product. Professional athletes are paid for a reason; they are better at what they do than amateurs because playing sports is the professional's job. The attraction is the near visceral recognition that intercollegiate athletics and higher education share common values and that the keystone to the relationship is the student-athlete who resides in both worlds. That is a value that advertisers and corporations are as interested in preserving as is higher education. Their interest is not in overwhelming the constraints; it is in understanding in clear and unambiguous terms exactly what the constraints are.

As noted earlier, commercial activity associated with intercollegiate athletics is not new, and it is not going away. More importantly, the relationship between commercial entities and college sports, when conducted within the appropriate constraints of higher education, should be encouraged and strengthened. Not only is the revenue from such activity critical to intercollegiate athletics and the colleges and universities that sponsor athletics, it helps engage communities beyond the campus in ways that fulfils the broader mission of higher education. The best relationship is a reciprocal one in which the corporate world advocates for the values of intercollegiate athletics and carries the messages for higher education. We, in turn, have an obligation to work with corporations to help them understand the role of universities in the advancement of national well-being and success. We need to take the steps to educate and support corporations in this endeavor.

But if commercial activity is here to stay – and is to be encouraged – for both intercollegiate athletics and all of higher education, what then are the constraints we use to determine how far we can go without compromising our mission or the principles that underpin that mission? Where can we move comfortably among the conflicting concepts of commercialism, amateurism and professionalism? Is there a true north that can guide each of us so that the desire to compete doesn't incrementally push all of us beyond the brink?

Clearly, there is a shared responsibility for addressing these questions. There may be some regulation that be developed, especially with regard to making commercial activity compliant

with the principle of amateurism for student-athletes. And while the Association can develop recommendations for commercial activity practices that align with the values of higher education, as with most other issues that confront higher education, the answers to these questions most likely are apparent only on a campus-by-campus basis. with most other issues that confront higher education, the answers most likely are apparent only on a campus-by-campus basis. As compelling as it is to find refuge in regulation and national policy that relieves a campus from the difficult decision, it is most likely that each campus must be guided in the decisions regarding commercial activity related to intercollegiate athletics by the principles that guide commercial activity for the rest of the campus. The ways in which we encourage private and commercial funds to subsidize athletics initiatives and the conditions we are willing to accept for how those funds will be spent should be consistent with how we encourage and accept private and commercial funds for the rest of the campus. And while the opportunities for development of commercial relationships are likely greater for athletics than most other components of the campus, the principles for doing so should nonetheless be consistent with the way in which the rest of the campus would approach those opportunities if they were available.
In short, the task at hand – as media platforms broaden and as institutions reach further beyond the campus for new revenue opportunities – is to align the commercial activity associated with intercollegiate athletics with the rest of higher education and to find the appropriate and reciprocal relationship with corporate America so that both benefit in accordance with their shared values.

Task Force Charge.

Prior to its first meeting, the Task Force on Commercial Activities in Intercollegiate Sports received a document outlining the group's charge. The document presented the scope of the issues to be undertaken, including the update and clarification of rules for the uses of student-athlete likenesses, images and names and an expanded charge to address the more general issue of proper engagement in commercial activity in the presentation and broadcast of intercollegiate athletics contests. The charge document also attempted to present the differences between college and professional sports that might influence how and to what degree limits should be established that demarcate the two approaches to sports presentation.

Professional sports, the charge observed, seeks to build audiences by entertainment in sports venues and through media presentations, especially the broadcast media. The purpose is to create interest in sports properties that translates to profits for the owners. The participants in the events are remunerated professional athletes, whose primary functions are to win the contests and add celebrity to the product.

College sports, by contrast, seeks to develop positive interest and loyalty in the sponsoring universities by engaging its campus constituencies, alumni and friends through sports events and through media presentations. The purpose is to create visibility and a sense of standing for the sponsoring universities that can be translated into prestige and attractiveness to potential students. The players themselves are students, not employees, who are to receive the benefits of being enrolled in a university, including the education developmental benefits of participating in competitive sports. Most college and university athletics programs do not result in revenues that exceed expenses and require institutional subsidies to make up the difference. For those specific sports programs that have revenues above expenses, the revenues are distributed broadly to fund participation opportunities in sports with little or no revenues.

The problem with regard to commercial activity arises when the differences between college sports and professional sports are diminished, and the similarities begin to dominate. When media companies and corporate sponsors, reporters and analysts, and university athletics departments, alumni and boosters overly emphasize the similarities between college sports and professional sports, the higher education context for college sports becomes weakened, with the threat of being lost. In too many cases, focus on revenue generation through advertising and corporate sponsorship is not only changing the look and feel of college games, but also the perceived connectivity to higher education.

How can the higher education context of college sports be preserved, even as real world pressures to produce revenue and favorable visibility push the enterprise toward the professional sports approach? How, that is, can the loss of identity of college sports be halted?

Both the narrative and the earlier charge present the case that the answers are neither to divorce college sports from media and commercial interests nor to encourage the drift of college sports toward the professional sports approach. Commercial activity associated with intercollegiate athletics is here to stay and indeed can and should be embraced. The appropriate approach is to nurture a reciprocal appreciation that encourages corporate America to recognize its interest in selling products in ways that are consistent with and helps communicate the values of intercollegiate athletics and higher education.

The charge to the task force was to find the balance point between two extreme positions, between unrealistic idealism and crass commercialism. There is, and there must be, commercial activity associated with college sports. But this commercial activity must respect the context in which college sports is conducted, and it must respect, in particular, that the participants are college students, not paid professional athletes.

The task force was asked to develop the principles that clearly establish this balanced position. These principles, according to the charge, should be sufficiently detailed so that they can be easily translated into enforceable NCAA legislation and rules. They should not be so abstract that they do not relate to action. The formulation of specific NCAA legislation can be undertaken by other NCAA committees with staff assistance, once these principles are in place. The principles must be sufficiently broad-based so that they cover all sports and all commercial activity associated with athletics. They should deal in a consistent way with national postseason championship events, including the Final Four basketball tournaments and football bowl games, with conference championship events and with all regular season games. These principles should be applicable to commercial activity connected with the venues, the broadcast media, and new media in all forms. They should pertain to all contractual arrangements between university athletics departments, athletics personnel and corporate entities that involve sponsorship and promotions, including for example shoe companies and beer distributors.

Special attention needs to be paid to the two issues that motivated the formation of the task force. There must be clear principles that can be translated into enforceable rules pertaining to the uses of student-athlete likenesses, images and names. Similarly, the principles must pertain to BCS postseason football games and indeed all bowl games.

Principles.

After three in-person meetings and numerous e-mail discussions, the task force developed a set of principles for commercial activity that involve student-athlete names or likenesses and activity that does not. The following principles include recommendations for legislative regulation in those instances involving direct student-athlete involvement or exploitation; creation of an oversight committee to inform staff decisions and appeals and to monitor trends regarding commercial activity; and a list of best practices to guide commercial activity at the national, conference and campus levels.

Commercial activities involving student-athlete names or likenesses.

NCAA legislation should be developed regarding the implementation of the following guiding principles concerning use of student-athlete names or likenesses in commercial activities.

1. A student-athlete's name or likeness may not be used in a manner to portray the student-athlete as promoting or endorsing the sale or use of a commercial product or service, or in a manner that a reasonable person would consider exploitation of the student-athlete(s).

   COMMENTS:

   Use by media that is protected by the first amendment would not constitute a violation of NCAA Bylaws as this is written. Use to broadcast and promote intercollegiate competition that is now permitted would continue. A student-athlete's specific association with the commercial product or service or that endorses, or promotes through appearance, words or actions would not be permitted. This change would permit current "indirect" uses, however, a new committee described in No. 5 below would be established to evaluate the uses involving student-athletes that are not prohibited by amateurism rules.

2. Use of a student-athlete's name or likeness (e.g. via game footage) that does not portray the student-athlete in a manner as promoting or endorsing the sale or use of a commercial product or service is permissible if the student athlete has consented to such use, such use is approved by the institution's director of athletics and there is a clear, official and visibly referenced-association between the commercial entity and the institution, conference or NCAA (e.g. "The ABC Company is an official corporate partner of X University and applauds the academic achievements of the institution's student-athletes"). If an institution or student-athlete learns of an improper use of the student-athlete's name or likeness, the member institution must issue a cease and desist notice to the entity.

   COMMENTS:

   The NCAA membership services staff remains the interpretative body for questions about NCAA Bylaw 12 related to student-athlete amateurism. The NCAA membership services staff also provides interpretative advice for permissible uses of likeness proposed by the NCAA national office for the Association's corporate and broadcasting programs, although there should be fewer interpretations after adoption of legislation consistent with these principles. The governance structure (e.g., beginning with the Legislation and Interpretations Committee) ultimately serves as a check on the consistency of interpretations of NCAA rules.

   In addition, a practical process to obtain student-athlete consent and director of athletics approval must be investigated. One approach would be to expand the language of the student-athlete statement. Director of athletics approval could be obtained in advance as well.

3. Provided the provisions in No. 2 above are met, use of a student-athlete's name or likeness is permissible if it is part of the actual coverage, in any medium, of the student-athlete's competition (e.g., TV broadcast, Internet Web cast, mobile statistics and highlights) or is a representation of that actual competition (e.g., photos, footage), provided such use does not take the form of a fabricated product (e.g., names on jerseys). If an institution or student-athlete learns of an improper use of the student-athlete's name or likeness, the member institution must issue a cease and desist notice to the individual or entity.

   COMMENTS:

   This point is added to differentiate between use of name or likeness in the context of athletics competition captured in media forms versus the insertion of a student-athlete's name or likeness on a non-media product. It also is permissible to use a student-athlete's name or likeness to promote media coverage in which the student-athlete, the student-athlete's team or the student-athlete's conference is scheduled to compete or has competed.

   The concept of "convergence", which will merge the interactivity of the computer and computer simulation with television broadcast, will need to be interpreted as it relates to the appropriate uses of student-athlete names and likenesses.

4. A student-athlete may not be paid in any form (see Bylaw 12.02.2) for use of his or her name, likeness or athletics reputation.

   "Bylaw 12.02.2—Pay. Pay is the receipt of funds, awards or benefits not permitted by the governing legislation of the Association for participation in athletics."

5. A "Commercial Activities Oversight Committee" shall be established and empowered to: (1) make binding determinations for questions regarding uses of student-athlete names and likenesses that while not prohibited under NCAA amateurism rules, should nonetheless be prohibited as exploitation, and (2) monitor and review annually the advertising/ marketing/sponsorship and other commercial trends, practices and policies in Division I and specifically those of the NCAA national office.

   COMMENTS:

   The committee would be charged to ensure that the values of higher education, the "collegiate model" and the interests of student-athletes continue to be protected in relationships with corporate entities. The committee would apply a reasonable person standard in making decisions concerning uses of student-athlete names and likenesses that

should, or should not, be considered exploitation, and therefore, prohibited or not prohibited. Annual reports from the committee that include evaluation of the Association's policies and practices shall be submitted to the NCAA Executive Committee.

6. All institutions, conferences, and the NCAA national office shall include specific contractual language in all licensing, marketing/sponsorship, advertising, broadcast, and other commercial agreements that would outline the entity's obligation to comply with NCAA Bylaws, policies, and interpretations, particularly those relating to use of a student-athlete's name or likeness. Institutions, conferences, and the NCAA national office also shall have an obligation to seek reasonable solutions with the contractual entity in cases where NCAA Bylaws regarding use of student-athletes' names and likenesses are not met.

   COMMENTS:

   For example, if a TV network partner does not comply with a requirement of a contract, the institution/conference/NCAA national office might ask them to remove an objectionable ad from future use or produce a replacement ad that sends a "higher education appropriate" message, or even pay a penalty in extreme cases.

7. Each institution, conference, and the NCAA national office shall maintain written policies for its licensing, marketing/sponsorship, advertising, broadcast and other commercial agreements (participants in football bowl games also will be asked to follow this process). These policies will be made available upon request from the Commercial Activities Oversight Committee in that committee's role to evaluate trends and ensure consistency with NCAA Bylaws, policies, interpretations, and best practices.

Commercial activities not involving student-athlete names or likenesses.

Recommended NCAA Best Practice.

Many commercial activities of institutions, conferences, and the NCAA national office do not involve the use of student-athlete names or likenesses, but must still embrace the essential principles upon which intercollegiate athletics is founded.

Corporate and broadcast relationships offer revenue streams that are demonstrably important to sustain overall intercollegiate athletics programs. As a result, the following are recommended standards to consider in such relationships that would encourage uniform practices that would help support the "collegiate model" of intercollegiate athletics and help maintain the line of demarcation between college and professional athletics:

1. The content of commercial advertising and marketing that officially aligns with the institution, conference or NCAA national office and their respective missions should expand the public's understanding of and confidence in higher education and the values of intercollegiate athletics.

2. The quantity of commercial advertising and marketing associated with intercollegiate teams and venues is governed by the respective sponsoring institution, conference or in the case of championships competition, NCAA policies. Such advertising and marketing should be consistent with the mission and values of higher education.

3. Institutions and its athletics personnel, conferences and the NCAA national office should establish written policies and standards regarding the use of intellectual property (e.g. marks and logos) in relation to commercial entities and activities.

4. Institutional presidents, conference boards of presidents and NCAA presidential groups should maintain written policies and standards for advertising and marketing associated with intercollegiate athletics, its participants and personnel.

Respectfully submitted to the Division I Board of Directors.

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State of the Association 2009: The Challenges of Commercial Activity

By Dr. Myles Brand, NCAA President

Introduction

Sports are deeply embedded in the American culture – indeed, in cultures worldwide. Every newspaper and evening news broadcast has a section devoted to sports. Our language is filled with sports metaphors, and our casual conversation often begins with opinions about the home team. It is a mark of the times that China chose the Olympics to announce to the world that it has arrived.

While professional sports certainly draws our interest, college sports occupies a special place. Intercollegiate athletics has become integral to many of our universities and colleges, institutions that are the guardians of our traditions and histories and the harbingers of our futures.

Most importantly, college sports positively affects the lives of young women and men who participate. We should feel good in knowing that college sports empowers these young people to become contributing members of their communities and country. College sports relies on the hard and good work of many, and we do not take the time we should to praise those who coach and administer intercollegiate athletics. They deserve significant recognition for the truly outstanding jobs they do in working with student-athletes.

I could easily spend my time today citing the successes of intercollegiate athletics. There are innumerable and wonderful stories that need to be told. Rather, I want to discuss some of the challenges we face. We live in a time when we are surrounded by rapid change, some of which creates problems for intercollegiate athletics. Make no mistake about it: college sports are very, very good! Nonetheless, they can still be better. After introducing some ongoing challenges, I want to turn to the major issue of the proper role for commercial activity within intercollegiate athletics.

I. Some Current Challenges

For the past several years, Division III has been dealing with issues presented by divisional membership growth. From 1990 to 2008, membership increased from 304 to 429. In itself, growth is good. It shows the attraction of Division III's philosophy, that student-athletes are to be integrated into the general student body and that there should not be any financial aid specifically dedicated to athletes.

But this growth also creates some problems. It stretches the infrastructure support for the divisional membership, including access to national championships. Some new members, moreover, differ in perspective from those who have long histories with the division, thus creating some potential dividing lines.

The division tried to step back and evaluate this issue through a temporary moratorium on new members. When that time period elapsed, a serious discussion about the structure of the division was undertaken. At last year's NCAA Convention, the debate about splitting the division into two subdivisions, or creating a new division, was intense. The good news is that there was strong presidential engagement.

This debate reached a climax when a survey was sent in February and March to the presidents in order to ascertain their views on the future of the division. The response was broad, with 96 percent of Division III institutions replying.

The answer that came back on the survey was clear. Over 85 percent of the members like the current structure and they do not want to change it at this time. That ends the current debate about splitting the division. But the survey also showed that there are key differences in perspective within the division about the best ways to conduct intercollegiate athletics.

The Division III Presidents Council is continuing the conversation through a series of white papers on key topics. These articulations of the issues are the catalysts for further debate at this Convention, and possibly action in the future.

The issues under consideration go to the core of divisional philosophy. I commend the presidents and athletics administrators for their willingness to address the future of the division in progressive ways. The challenge, of course, is to exit this exercise with clear and concrete directions for the future, and not permit the differences in opinion on some specific issues to result in gridlock. Indecision may be the easiest approach with which to live in the short run, but in the long run, that approach would be harmful to the success of the division and its members.

Several years ago, Division II struggled to find its identity. Some of its members felt that their only choice was to align with Division I, even if it was not a good fit with their missions.

With superb presidential leadership, that has changed dramatically. The division emerged from a planning process with a better understanding of what it stands for. Division II is committed to balancing its strong academics with competitive athletics and to engaging through athletics with its local communities. Its signature sports festivals are Olympic-style, multiple-championship events that provide memorable experiences for student-athletes. The division's leadership in charitable activities is exemplary, including its student-run Make-A-Wish philanthropy and, following Hurricane Katrina, its support of Habitat for Humanity builds. Membership in the division is increasing and satisfaction is high.

Of course, there are other challenges for these two divisions. To mention one, there is a lack of diversity in athletics administration and coaching. There is a paucity of women and persons of color in senior athletics administration and head coaches positions. For example, there are only three African-American head football coaches in Division II – when Historically Black Colleges and Universities are excluded – and five in Division III. Media conversation usually focuses on issues concerning diversity and inclusion in Division I. There are problems to be solved there, but the fact of the matter is that, as judged by the data, there are also difficulties in Divisions II and III.

The good news is that Division II presidential leadership is again rising to the task, and taking steps to address this challenge directly. Good efforts are underway, as well, in Division III. The NCAA, through the national office of diversity and inclusion, is fully supportive of these efforts.

One central challenge that has occupied Division I for the past half-dozen years is academic reform. It is perfectly acceptable for Division I institutions to strive to be athletically successful, and for Division I student-athletes to want to excel athletically. But these same teams and student-athletes should also succeed academically. The goal of the current academic reform initiative in Division I is to assure that every student-athlete has the genuine opportunity to have a meaningful academic experience and to graduate.

The good news in Division I is that after several years of effort, measurable progress is being made. Improved metrics for graduation and real-time progress, the Graduation Success Rate and the Academic Progress Rate, are firmly in place. Overall, student-athletes have improved on average in every category. Those sports that traditionally have had the most difficulty academically – football, baseball and men's basketball – are in fact improving.

The improvement in football and baseball is substantial over the past several years. Men's basketball has improved modestly this past year, and we are hopeful that progress will continue. We have learned that academic success in each sport has specific barriers, and thus efforts are underway for sports-specific initiatives to address poor academic performance. Baseball has led the way here, to the credit of the college baseball community.

However, this academic reform initiative is not complete. There remain pockets of poor performance that must be overcome. This reform initiative is to be distinguished from others in past generations in that it is highly comprehensive, from enhanced admission standards to required progress toward degrees. Critically important, too, is that sanctions attach to inadequate academic performance. As data were initially being collected, those sanctions were restricted to scholarship losses. For chronic underachievers, the sanctions are now becoming more telling, including loss of access to postseason play and team decertification.

The objective, of course, is not to punish teams, but rather to change behavior and expectations. Sanctions are being administered judiciously in order to take into account extenuating circumstances and the demonstration of genuine improvement. Some among our critics would like to see greater numbers and severity of sanctions. It is a matter of judgment as to whether that more strident attitude would bring about more academic improvement more quickly. The Committee on Academic Performance (CAP) and the national office have taken the approach that serious sanctions are to be applied when good-faith efforts prove ineffectual. Lasting academic change requires new habits and new attitudes, not merely the fear of sanctions.

The challenge facing Division I in academic reform is two-fold. On the negative side, it is necessary to sustain the serious sanctions for poor academic performance. There will be pressure, which will ultimately be directed to institutional presidents, to relinquish on this issue. I strongly advise against back-tracking and I do not expect it. The presidents have proven their resolve to stay the course. On the positive side, the challenge will be to continue to press for changes in individual sports and in our rules that motivate academic success. For example, changes in playing and practice time limitations, summer academic programs, and staffing of academic advisors and tutors should be considered.

Turning now to the major challenge on which I want to focus: What is the proper role for commercial activity within intercollegiate athletics? This challenge primarily concerns Division I, but it has substantial consequences for Divisions II and III.

II. The Challenge of Commercial Activity

The issue of commercial activity has become prominent in recent years. If the issue has not already reached crisis, it is certainly approaching it. There are several reasons for that.

First, universities are accelerating their spending on intercollegiate athletics. For more than a decade, the rate of increase in athletics' expenditures in Division I has exceeded the rate of increase in the general university budget by a factor of three to four. While revenues for athletics tend to increase faster than the general university budget, they have not, on average, kept pace with expenditures. As a result, just six athletics programs in Division I have been in the black for each of the past five years. In any given year, only five percent of the Football Bowl Subdivision (FBS) programs operate in the black.

Where do the funds come from in order to meet the increased expenditures? There are basically three potential categories: increased philanthropy, that is, donor contributions; increased subsidy from the university general fund; and increased commercial activity. There is no question that Division I athletics directors have had to increase their efforts in fundraising. True, they have had some success. But there are natural limits, especially in times of an economic downturn. Moreover, the successes of athletics departments in fundraising are beginning to have consequences for the rest of the university; while philanthropy is not a zero-sum game, funds raised for athletics in some instances are coming from those that in the past went to other parts of the university. There is nothing wrong with universities subsidizing athletics. Almost every institution does so. The issue is, rather, whether the subsidy so burdens the rest of the university that there are adverse academic consequences. Given the budgetary difficulties for many institutions, most especially those highly dependent on state allocations and tuition, continued large increases in subsidy for athletics are

proving problematic with the recent economic downturn. Endorsement payouts have decreased, thereby again, making it difficult for institutions to increase their subsidies to athletics programs. That, then, leaves increases in commercial activity to fund increased expenses in athletics.

Second, there have been dramatic changes in the media, including especially the sports media, that have generated new and more opportunities for commercial activity associated with athletics. Nearly three decades ago, ESPN began solely featuring sports on TV. There is no doubt that ESPN has been highly successful. Its signature television outlet has not only turned into an entire network of cable platforms, but it now includes print magazines, radio and importantly new media configurations. It is not an exaggeration to say that ESPN has shaped an entire generation in how sports are consumed.

Media presentation of sports is big – very big – business. That pertains not only to professional sports, but also to college sports. The desire of media outlets to obtain college sports content and to use it as a platform to sell advertising sometimes seems limitless. Media companies are quite willing to pay universities, conferences and the NCAA to present this content in ways that are attractive to audiences. The more attractive it is, the more they are willing to pay for it.

Actually, the issue goes beyond increased revenue. The broadcast presentation and distribution of a school's athletics events can increase its visibility and name recognition. Athletics is one good way to market the university. Such successful marketing can result in higher application rates for the general student body, as well as campus morale and community building.

The third reason for increased commercial activity is related to the expansion of the sports media. We are in the midst of a media revolution in which there are rapid changes in the modes of presentation and in how audiences consume media. It was not that long ago when sports were featured only in the print media and three TV networks. Now there are three types of screens to watch: TV, which contains many networks, local as well as national, and more and more on-demand opportunities; computer screens, which not only include live Internet presentations, but also fictitious sporting events through video games; and hand-held devices that permit mobile viewing tailored to the audience's taste and convenience. The intermingling of real sporting events and digitally-produced fictitious ones is expected to increase dramatically. There is also an enormous increase in text and commentators about sports, including blogs and radio with provocative rant shows.

There are expanding opportunities for universities to generate revenue by selling the rights to present and distribute their sporting events to these new media outlets. But the new media environment is highly competitive, and so expanded access becomes a condition for the sale of these rights. Examples of expanded access include moving the day of the week and the time to accommodate broadcast schedules. Access includes live interactions with coaches and student-athletes in order to bring the viewer "into" the game.

These three primary reasons explain why there is increased commercial activity in college sports and why, at this time, the challenge to finding the right balance for commercial activity is critical. On the one hand, in the current environment, competitive Division I athletics programs are possible only if there is revenue from commercial activity. But on the other hand, commercial activity if not appropriately managed can abridge the values and mission of higher education institutions.

The central questions then become: What is the balance point between too much and too little commercial activity and how do we adhere to it?

III. A Balanced Approach

Aristotle argued for the doctrine of the Golden Mean. The virtuous path is one that avoids the excesses of the extremes. One of his examples is that courage is a virtue, in that it strikes a balance between cowardice and being foolhardy. Aristotle is not claiming that the right path is always the middle one. But he warns us to avoid the ends of the spectrum.

In the case of commercial activity, the extremes of unrealistic idealism and crass commercialism are not the right causes of action, but between them – somewhere – there is an acceptable balance point.

Some believe that intercollegiate athletics should be totally devoid of commercial interests. They believe that college sports should be "pure," that only the competition between student-athletes is relevant. Advertising and other commercial activities sully the contests and the contestants.

This idealistic approach may work in the cases of recreational and club sports, but not for competitive, organized sports, including intercollegiate athletics. Training, coaching and competition are not free in the collegiate environment. Coaches work for salaries, equipment must be purchased, and travel to the competition and conducting the events can be costly. Championship competitions, in which the best compete against their peers, are a key part of the collegiate athletics experience, and championships certainly are not free to produce.

There is no university known to me that has the resources for everything its faculty, students and staff want to do. Thus, it is necessary to allocate resources according to the institution's priorities, to use its resources well and to supplement its resources when possible. That is true in athletics for all institutions in all three divisions.

Division III institutions seek to conduct their athletics programs efficiently while being competitive. There is little revenue generated by these athletics events, such as ticket and media rights sales, and there is, on average, modest philanthropic funding. By and large, Division III institutions subsidize their athletics programs.

It would seem, then, that Division III is not engaged in commercial activity in support of its athletics programs. But that is not the case. Division III conducts its championships mostly through the support it receives from the national NCAA media rights contracts. The NCAA is in the middle of a major contract with CBS for the media rights primarily for the Division I men's basketball tournament. Revenue from that contract each year is allocated to Division III, and much of that funding is used for the championships in the division. CBS, a for-profit corporation, sells advertising time during the men's

Division I basketball tournament in order to generate its revenue. Thus, indirectly at least, Division III athletics programs are dependent on commercial activity.

Division III could reject the funds generated by the media rights sales of the Division I men's basketball tournament, and substitute additional campus-generated subsidies. It would then come closer to idealistic puritism. But that would be a bad idea. Those campus funds are better used to support the academic mission of Division III institutions. The use of funds generated by commercial activity is acceptable, as long as it occurs within the overall context of the values and mission of higher education.

Pure idealism, that no funding for intercollegiate athletics is derivative of commercial activity, is unrealistic and unsustainable. The only way to operate athletics on campuses without the revenues from commercial activity is to reduce it to recreational or club sports, without paid coaches or good equipment and facilities. That, of course, is always an option, but the benefits of student participation in high-level, organized athletics, the branding and marketing of the institution through athletics, and the value to the community, including economic development, would all be lost. The loss of these benefits to gain pure idealism is unwarranted. The higher education community has understood this equation for over one hundred years.

Of course, commercial activity can go too far and it can subvert the values and mission of higher education. Crass commercialism is no better than unrealistic idealism. Both are unacceptable extremes.

Some of the critics of contemporary intercollegiate athletics argue that the problem is not the commercial activity itself, but rather the artificial limits placed on that activity by the higher education community. Competitive success, they argue, is the goal of athletics programs. The reason we play the games is to win. Such success is costly, and becoming more so over time. Since there are limitations to institutional subsidy, athletics programs should pursue commercialism, no matter its form, to pay the bills. Intercollegiate athletics should do all that it can to generate revenues.

Surely, this extreme position is mistaken. There are commercial activities in which universities should not engage even if the generates substantial revenues for athletics. A clear example is that student-athletes should not be commercially exploited. These young men and women are students, and students first. They are not paid professional athletes under contract to play for the institution. No doubt, an athletics department can generate revenue by having its star players point to a product or service and say "Buy this." But direct endorsements by student-athletes are not in keeping with their amateur status, and that status is a key element of the value system of higher education. Students participate in intercollegiate athletics as part of their overall education, not as professionals.

IV. The Parameters for a Solution

There are several orthogonal parameters that must be understood in order to find the balance point for commercial activity. These parameters include the locus of responsibility for controlling commercial activity, the underlying types of commercial activity relevant to intercollegiate athletics, and the potential for diminishing or eliminating cases of over-commercialism.

There must be shared responsibility in the oversight of commercial activity. In particular, there are critical roles for the NCAA national office and there are critical roles for the individual campuses. Without the complementary exercise of control, there is little opportunity to contain over-commercialism.

The role of the NCAA national office is to work with the membership to articulate the core principles that are to govern commercial activity, and to disseminate these principles widely so that they are well understood within the college sports community and among the media and corporate sponsors. The NCAA national office has responsibility for conducting and managing the media rights for championship events (except BCS football). It likewise has the responsibility for implementing the principles governing commercial activity in these championship events. The most visible of these events is the Division I men's basketball tournament.

The role of the NCAA members is to oversee their athletics programs and the events in which their teams participate, so that the core principles concerning commercial activity are followed. That includes educating their athletics communities, including those off-campus, about the nature and limits of commercial activity in intercollegiate athletics. There are approximately 770 national championship events under the direction of the national office; but there are over 100,000 intercollegiate athletics contests, meets and tournaments each year under the direction of the member institutions. Cumulatively, then, a great deal of the responsibility for oversight of commercial activity falls to the campuses.

Conferences have a role to play. They oversee conference championships, and they negotiate media and corporate contracts on behalf of their conference members. In some cases, conferences combine their efforts to create multi-conference events. These events include football bowl games in Division I.

Conferences consist of eight or more member institutions; conference officers report to the member institutional presidents. It is the institutions that bear the responsibility for assuring that the conference offices, in acting on their behalf, adhere to the principles governing commercial activity.

That is, generally speaking, the national office is responsible for postseason national contests, with the exception of FBS football, and the individual campuses have responsibility for all the other intercollegiate contests, including those conducted by their conferences. This is the system of shared responsibility.

Some may believe that the NCAA national office should have oversight for commercial activity for all intercollegiate athletics contests. Universities and colleges conduct regular-season athletics contests and they themselves, or through their conferences, contract for media coverage, for the sale of merchandise, and indeed for all nonchampionship commercial activity. It would not be a good idea for the national office to exercise campus-based control of commercialism for all its members. Local control of commercial activity permits the campus to best

take advantage of its opportunities and to market and depict itself in the manner it judges most appropriate. The development, advancement and protection of an individual institution's brand ought to be within its purview. If the NCAA national office were to assume this responsibility, it would need to become dramatically larger and more intrusive into the affairs of its member institutions. I certainly do not recommend that course of action.

There is, moreover, the possibility of institutional neglect of responsibility if the focus is placed entirely on the national office. Since it is impossible in practice for the national office to oversee the entirety of commercial activity for intercollegiate athletics, the view that the national office bears this full responsibility is tantamount to advocating for an unworkable approach that will increase over-commercialization. Without shared responsibility to implement the core principles, there will be commercial activity that is outside the value structure of higher education.

Turning to the types of commercial activity relevant to intercollegiate athletics, the key distinction is between those activities that directly involve student-athletes and those that do not. A central element – arguably, the central element – of intercollegiate athletics is that those who participate are students, and not professional athletes.

The bylaws and regulations in the enormous NCAA manuals, except those that address competitive equity, pertain to student-athletes. In general, the NCAA does little to regulate athletics departments or institutions; rather, the NCAA rules are mostly designed to regulate student-athletes.

A corollary of this focus on the amateur status of student-athletes is that they should not be commercially exploited. In that they are compensated, the commercial exploitation of their skills and reputation by professional athletes is often a good thing, from the perspective of those in the business of sports and the athlete himself or herself. But commercial exploitation of student-athletes is anathema. It is contrary to the essential core of intercollegiate athletics. Thus, any adequate policy of commercial activity within intercollegiate athletics must ensure that student-athletes are not commercially exploited. The NCAA rules, which must apply universally to intercollegiate activities and contests involving student-athletes, must reflect this key point.

When we say "student-athlete exploitation in commercial activity," we should have a specific definition in mind. Student-athletes are amateurs, not paid professionals. That implies that they cannot accept payment for endorsing or advertising any commercial product or service. It also means they should not be put in a position in which the natural interpretation by a reasonable person is that they are endorsing or advertising a commercial product or service.

Students participate in intercollegiate athletics as a privilege, not a right. In their roles as student-athletes, they are required to follow NCAA rules. They are also expected, by their coaches and other athletics and academic administrators, to act in ways that benefit their teams and universities. In the real world, the fact of the matter is that it is almost impossible for a young man or woman to resist doing something that his or her coach or athletics administrator says that they should do. If a person of authority asks a student-athlete to pose for pictures which, either intentionally or not, are endorsing a product or service, it is almost impossible for the student-athlete to resist that request. The student-athlete, in reality, lacks the freedom to resist the request. In these types of cases, it is exploitation.

Most cases of exploitation are more subtle and indirect. Instead of posed scenes, the marketing can include game pictures, films, audio or video of student-athletes that make it appear to a reasonable person that that student-athlete is endorsing a specific commercial product or service. The student-athlete may well have no knowledge or awareness that his or her reputation, image or name is being used for these commercial purposes. If the student-athlete were asked for permission to use his or her image or reputation for this commercial purpose, he or she would be compelled by NCAA rules to deny granting permission. But in the cases imagined, a request for permission to use his or her reputation, image or name is not even requested. These cases may also be instances of exploitation. That is, a student-athlete is exploited in a commercial activity if a reasonable person would interpret the association of the student-athlete with a commercial product or service as an endorsement of that product or service. It is not necessary that the student-athlete be aware of the commercial activity for it to be an endorsement. Moreover, it is exploitation even if the student-athlete gives permission, since he or she is not in a position to give that endorsement. Student-athletes cannot give such permission by NCAA rules if they are to retain their eligibility to participate.

It is critical to note that this definition of student-athlete exploitation does not include the promotion of most college athletics by institutions or charitable events. Using pictures of student-athletes by athletics programs to promote the upcoming big game or to promote literacy by showing the athlete reading to young children should be acceptable. The reason that these cases are acceptable is that these are not commercial, for-profit based activities. There is a difference between charitable and university activities, on the one hand, and commercial, for-profit activities on the other hand. An adequate definition of "student-athlete exploitation" must recognize this distinction.

The other type of commercial activity in intercollegiate athletics pertains to instances not directly involving student-athletes. There are numerous examples of this type. For example, there can be the sale of merchandise, such as clothing, that uses the athletics department logo; or a coach might endorse a commercial product or service; or the institution might sell signage within its athletics facilities, including scoreboard signs, in order to advertise a commercial product or service; or an institution or athletics department might adopt a certain commercial product for a fee, say a brand of athletics shoes or soft drink.

This type of commercial activity does not exploit student-athletes, or at most, it does so only indirectly and marginally. The NCAA does not regulate this type of activity. It may be that it should be regulated, since it can reflect on the overall public impression of higher education. But, presently, the NCAA does not regulate it because that would intrude on institutional autonomy. We permit institutions and conferences to decide what instances of commercial activity not involving student-athletes are acceptable and tasteful.

Some who are uncomfortable with the growth of commercial activity within intercollegiate athletics focus on the tastelessness of some of these activities. They may find the quantity of institutional commercial activity within athletics venues overwhelming, noisy or inappropriate; or they may find the products or services advertised unbecoming for higher education. In the latter case, the NCAA does have rules stating that advertising that is degrading of race or gender is impermissible. But not all advertising that some find unacceptable is degrading.

For the two types of commercial activity, that which directly involves student-athletes and that which does not, should there be consistency among those who have responsibility for oversight? The answer is: yes and no.

With respect to the involvement of student-athletes, there should be consistency across national, conference and institutional commercial activities. There should not be, in any instance, exploitation of student-athletes. It is our job, as athletics administrators and coaches, as faculty representatives and academic officers, to assure that student-athletes are not subjected to exploitative practices for institutional or personal gain.

Thus, there should be universal rules that apply to all who have oversight responsibility prohibiting student-athlete exploitation. These rules are not easy to formulate correctly. Indeed, over the past several years the NCAA governance structure has tried and failed to do so. I will shortly recommend an alternative approach to formulating such rules.

Rules only make sense in this context if they are enforceable and there are sanctions for noncompliance. If we are serious about protecting student-athletes from commercial exploitation, and it is not merely rhetoric, then we must have enforceable rules and meaningful sanctions. Be assured that I am serious about it!

By contrast, the question of consistency in oversight for commercial activity not directly involving student-athletes has a different answer. Namely, there need not be consistency at the national, conference and institutional levels in commercial activity. To require such consistency is to try to legislate taste, and trying to do so is at best foolish. The reason is that, except in the extreme, it is impossible to establish widespread intersubjective agreement. By its nature, matters of taste are highly dependent on culture and experience. True, not every ad or marketing ploy is acceptable. We want institutions of higher education to use good judgment and not succumb to temptations for the outrageous or the overly provocative. But within these boundaries, there is a geat deal of room for disagreement.

The NCAA national office takes a conservative approach to its oversight responsibilities for the championships. The national office has and will continue to eschew advertising and other commercial activity that can be reasonably interpreted as offensive. Championships, including the highly visible men's basketball tournament, are conducted in "clean" venues, in that advertising and signage are kept at a minimum and the highest standards of propriety are practiced.

In the case of venues and media presentation under the control of individual institutions and conferences, it is <u>their</u> taste that is controlling. Sometimes the venues are clean, but at other times they are "busy" and tend to resemble those of professional athletics events. Some alumni and fans enjoy the simplicity of the traditional college venue; others enjoy the noise and flash of the contemporary entertainment medium. So be it.

Rules governing commercial activity not directly involving student-athletes, therefore, are to be kept at a minimum. Enforcement and sanctions in this area should not be needed. We already have rules about treating all people with respect, and against racism and sexism. Nothing more may be needed.

Nonetheless, there are better and worse ways to conduct commercial activity on campuses, and on conference and national platforms. Some ways better represent higher education than others. It is understood that commercial activity is undertaken to generate revenue. But it does not follow that the greater the flurry, the greater the revenue stream. Good judgment and sound contract negotiations with the media and corporate sponsors is the key to revenue generation. Focusing on the special features of college sports is more effective than emulating professional sports, with its strong entertainment focus.

While rules are inappropriate, guidelines based on best practices make good sense in bringing order and propriety to commercial activity. These guidelines should be in the form of recommendations to institutions and conferences, not enforceable requirements. These best practices should both specify which approaches to commercial activity are appropriate and which are untoward.

This solution is likely to be unsatisfying to some. They would like to have rules and accompanying sanctions for all commercial activity, whether or not it directly involves student-athletes. However, a balanced approach to commercial activity in intercollegiate athletics recognizes the differences in regulatory conditions when student-athletes are and when they are not directly involved, and it takes into account differences in matter of taste.

V. The Centrality of Student-Athletes

The framework for commercial activity I just described is based on a key premise: namely, issues surrounding student-athletes are central to any adequate policy for commercial activity in intercollegiate athletics. What is the justification for this premise?

To answer that question, we must go back to basics. And the most basic question is: Why do universities support intercollegiate athletics activities at all? On the face of it, the support of athletics events appears anomalous. Universities are academic institutions, and athletics participation is not academic. Or, so it seems at first glance. But a deeper understanding of the nature of a university education in contemporary America yields a different answer.

The primary role of a university education is to create learning opportunities in academic disciplines, such as physics, psychology and philosophy. It is also designed for certain skill development, such as computer literacy and cultural understanding. But a complete university education goes beyond these areas; it also includes the development of character that enables one to be a

successful adult, someone who is capable of having a good family life, who is a contributor to his or her community, and who is a productive citizen. These developmental aspects of character are taught through participation in athletics. There are, of course, other ways to learn character at the university. But, I contend, there is no better way than through athletics participation.

That is, the underlying reason why universities support intercollegiate athletics is that it provides educational value for those students who participate. There are other reasons why universities sponsor intercollegiate athletics, such as morale building for the campus community, and contributing to local economic development. But, in the end, the baseline reason for intercollegiate athletics is the value it brings to the education of student-athletes.

For the present discussion about commercial activity, this point is important because it provides the touchstone to finding the right balance point. That balance point must be understood in how student-athletes are affected by commercial activity. Without commercial activity, intercollegiate athletics as we know it could not exist. There would be fewer scholarship funds available in Divisions I and II, including funds for young men and women who otherwise would not have the resources to attend college. But even so, the wrong kind of commercial activity results in the exploitation of student-athletes. We can – and we should – debate the nature of proper commercial conduct of intercollegiate athletics. However, one principle is not subject to debate: commercial exploitation of student-athletes is not permissible. Period!

Again, a necessary condition for the balance point is this: engagement in commercial activity in intercollegiate athletics is permitted <u>only if</u> that activity does not exploit student-athletes. Call this the <u>condition of nonexploitation</u>.

Our interest in athletics competition certainly depends on team success. We root for the home team and we follow its progress during the season and through the years. But we also follow – often with great enthusiasm – the progress and success of athletics stars. These young men and women personalize the game for us; they give sports its human face. These young persons also become, at least locally and sometimes nationally, celebrities. That's true not only for professional athletes, but also for college athletes. This notoriety, in turn, makes college athletics stars attractive to corporations in advertising their products and services.

It is exploitation when student-athletes endorse commercial products or services because student-athletes are amateurs. If and when they become professional athletes, then they can endorse a product or service as they wish. But it is inappropriate – indeed, wholly unacceptable – for them to do so as a student-athlete.

It is critical to be clear what the term "amateur" means in this context, especially so because there is more than one meaning of the term. Sometimes the word "amateur" is used to denote a person of limited skill, who may be new to playing the sport. Clearly that is not the meaning of "amateur" at issue here. Student-athletes may well be highly proficient in their sport and they may have been practicing and playing it for a good number of years.

There is another meaning of "amateur" that is derivative of usage from 19th-century England. An amateur in this sense was someone from the upper class who played the game for recreational reasons, as opposed to those of the lower classes who played it for compensation. Amateurs and professionals were to be kept separate. When America imported sports from England, it left behind these distinctions based on class. Contemporary American student-athletes obviously can come from any economic or social class.

Rather, the meaning of "amateur" in college sports pertains only to student-athletes. They are students, and students first. Even if their personal interest in a sport may outweigh their interest in academic achievement, their status is that of a student. In order to participate in NCAA intercollegiate athletics, they must be properly enrolled and academically-eligible students. Some may have ambitions to become professional athletes, but their status while in college is that of an amateur, nonprofessional, student-athlete.

As students, they are not paid to participate in intercollegiate athletics. Some who participate in college sports, no doubt, would like to receive a salary and to endorse products. But they will need to change their status and become professionals if they are to be remunerated.

The specific sense of "amateur" relevant to college sports applies, strictly speaking, only to the student-athletes. In other ways, intercollegiate athletics is similar to professional sports. In both cases, the coaches are paid, there is a fee for tickets, media rights are sold, and so on. But the participants in college sports are college students.

Of course, there may be a difference in the look-and-feel of the two games. Professional sporting events may focus more on entertainment than college events – though that is not true in all cases. Coaches may be paid more in professional sports than in college – though that is not true in all cases. Media rights may be more expensive in professional sports and the broadcast audience larger – though that also is not universally true. Indeed, once the status of the participants is bracketed, the differences between professional sports and intercollegiate athletics tend to be one of degree, not kind.

VI. Judgments about Student-Athlete Exploitation

Leaving aside radical critics of one orientation or another, I expect that there is widespread agreement with the condition of nonexploitation of student-athletes. But I also know that there is lack of agreement on how to apply this condition in particular cases.

Can we solve the problem of determining when student-athletes are exploited? Not easily, I suspect. The first inclination is to try to develop an algorithm or mechanical rule that automatically gives the right answer. That approach seems doomed to failure. For almost three years, on two separate occasions, the NCAA Division I governance structure tried and failed to reach consensus on such mechanical rules. Obviously, a student-athlete cannot be depicted holding a product and saying "Buy this." But there is a great deal of gray area. One attempt was to specify the percentage of space that can be devoted to advertising when a student-athlete is in the frame. But there are multiple factors that make it appear that the

student-athlete is endorsing a product beyond the percentage of space devoted to it. No matter how carefully such mechanical rules are crafted, wiley advertisers would likely find a way within the rules to give the appearance of product endorsement. That would lead to revising the rules, and then new attempts to push the boundaries. I can already see the NCAA rulebook getting fatter.

The point is that this type of regulation cannot be mechanical. Rather, what is required is the exercise of good judgment by sensible people who understand the rationale and purpose of the condition of nonexploitation. This is the only reasonable way, I believe, to proceed. Even so, we will not achieve full agreement on every case. There will be borderline instances in which persons of good will, knowledge and experience will disagree.

We need, in particular, a systematic approach to adjudicate cases in which it is alleged that there is student-athlete commercial exploitation. We need an objective perspective by those practiced and expert. In other cases, when good judgment is required to apply NCAA rules, such as student-athlete eligibility, we depend on trained, national office staff. I recommend that we do so here as well. Moreover, as we do in other cases, there should be an appeals process involving NCAA members that would review staff decisions.

In addition, there may also be the need for an oversight committee of membership peers that will review the landscape of commercial activity in intercollegiate athletics, make binding determinations of instances in which there is student-athlete exploitation even if NCAA amateurism rules are not violated, and evaluate trends in commercial activity to ensure that the values of higher education and the best interests of the "collegiate model" are not abridged. Actions of the oversight committee would both guide decisions of the staff and appeals body directly with regard to student-athlete exploitation and inform the membership when trends appear to be compromising the values of higher education and the collegiate model.

Marketing expertise and new media technologies have changed the landscape in which student-athlete images and names are used. We can expect those factors to continue to reshape the landscape. Thus, our process of adjudicating the claim of student-athletic exploitation must be sufficiently forward-looking and flexible to take into account these factors. It is incumbent on all to ensure that the national office staff and any oversight committee charged with undertaking decisions about student-athlete exploitation in commercial activity are knowledgeable and objective.

In the legal system, judges are expected to be disinterested. That is, they are interested third parties who use their knowledge and experience to render objective judgments. That is the way in which NCAA staff and oversight membership committees rendering judgments about student-athlete exploitation must be made. This point should be obvious, but I make it because the issue of student-athlete exploitation is highly charged. Both those seeking almost unlimited access to student-athletes for commercial reasons and those wanting to almost entirely prohibit student-athletes argue their cases strongly. We require disinterested persons to make the correct judgments.

VII. Principles and Conclusions

At the highest level, there are two key principles that govern commercial activity in intercollegiate athletics. They are:

(P1) Student-athletes are not to be exploited in commercial activity;

and

(P2) All commercial activity in intercollegiate athletics undertaken by universities and colleges, conferences and the NCAA national office must be consistent with the values and mission of higher education.

These two high-level principles must be translated into more specific NCAA legislative rules, as well as guides for best practices. That detailed, careful work is necessary to assist athletics and university administrators in conducting commercial activity properly within athletics departments. There is no question that commercial activity is necessary for mounting intercollegiate athletics programs, certainly in Division I, but also in Divisions II and III. But that commercial activity must be undertaken within the context of higher education. It must be done the right way.

Contemporary marketing practices of college sports by the media and by corporations can unintentionally, and sometimes intentionally, abridge these two principles. Intercollegiate athletics exudes enthusiasm; it represents the excitement and commitment of youth. It is attractive to a wide spectrum of the American population, including younger demographic groups with discretionary income. Thus, it is not unexpected that marketers would like to use an association with college sports to sell their products and services.

It is not easy for the college community to protect intercollegiate athletics. The pull of revenues from those who want to use college sports for purely commercial reasons can be strong, especially when the revenues that result are perceived by athletics programs to be necessary to mount competitive teams. The courts, moreover, have sometimes sided with those who want nearly unfettered access to college sports for commercialization. The recent decision of the federal court permitting fantasy games to use student-athlete statistics and names is a case in point.

For the past several years, the NCAA has worked to translate these two principles into more specific rules. A number of persons on a number of NCAA committees struggled to develop such formulations. But they did not succeed. Achieving the right balance between permitting commercial activity that generates revenue and forbidding commercial activity that is contrary to these two principles proved elusive.

As a result, a task force of university presidents, assisted by several knowledgeable athletics administrators, focused their attention on the issues. The goal of the task force was to provide guidance to the Division I Board of Directors, and through it, the Leadership Council, in identifying the balance points.

This is a difficult task. There are some differences of perspective within the NCAA membership on where precisely to locate the balance point. In addition, the desire to use college sports in advertising is changing rapidly

because of a creative and aggressive marketing profession, because of a changing legal environment, and especially because of rapidly evolving technology in media.

However the fruits of the task force's work are realized through our governance system, I believe that we must remain flexible and monitor the ongoing changes in approach to commercial activity. It is highly unlikely that we will be able to set in Indiana limestone the perfect guidelines and rules for the use of commercial activity. Indeed, the reason why our membership felt discomfort these past few years in dealing with commercial activity was that we were using NCAA legislation that had been overwhelmed by the changing media and legal environment.

The key element in any specific rules and guidelines we now adopt must include an element of judgment in deciding when certain instances of advertising are acceptable and when they are not acceptable. Most of the hard decisions we will need to make pertain to principle (P1), forestalling exploitation of student-athletes. It is here that we must make our stand. But even so, there will be borderline cases that will need adjudication. Algorithmic solutions are not workable, since they merely present a puzzle to be solved by those who want to take unfair advantage of student-athletes. Rather, there needs to be a process by which experienced, objective and careful judgment resolves the issues.

The NCAA staff should play that role in interpreting these rules pertaining to student-athlete exploitation. But, as we also do in other cases, there also needs to be an appropriate appeals process and oversight of staff decisions. Here the membership, operating through an appointed committee, would both deliberate about appeals and provide appropriate oversight of staff decisions.

Any such approach must also recognize the need for timeliness. Corporate sponsors should be able to receive a response quickly to queries about whether their commercial activities are consistent with NCAA principles and rules. We must respect their business concerns and practices, even as we delimit advertising according to our principles.

College sports are incredibly popular among fans and within the higher education community. And for good reasons. It consists of athletics contests among earnest young men and young women, who are students representing their colleges and universities. There is a sense of exuberance, as well as high-quality performance, that is characteristic of this level of sports. Done in the right way, college sports illustrate in action the pride we take in our fine institutions of higher learning. We should do everything we can to protect this significant enterprise, intercollegiate athletics.

But reality imposes itself. Almost every university and college must provide financial subsidy to conduct intercollegiate athletics. To help meet these costs, revenues from commercial activity are required. And for those few institutions who manage to conduct intercollegiate athletics without subsidy, revenue from commercial activity, especially through media rights sales, is essential.

The objective, then, is to determine the balance point, all factors considered, between crass over-commercialism and unrealistic idealism. The two principles – (P1) and (P2) – articulate that balance. These principles, in turn, must be translated into rules and practices, with appropriate sanctions. Once that occurs, we will be able to move forward in the conduct of intercollegiate athletics with a clear conscience. Intercollegiate athletics has become an integral part of college life and culture. We must do it right.

The NCAA State of the Association speech presented January 15, 2009, in Washington D.C. was developed from this paper.

REPORT OF THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

DIVISION I COMMUNICATIONS AND COORDINATION COMMITTEE

The NCAA Division I Communications and Coordination Committee submits the following report from its January 16, 2009, meeting:

INFORMATIONAL ITEMS.

1. **Convention Debrief.** The committee members reported they found value in attending the 2009 NCAA Convention. Specifically, they reported finding value in sharing information with one another, attending various governance meetings and functions and in hearing from those in the governance structure. Further, the members noted they received positive feedback from those in attendance at the 2009 NCAA Convention that the cabinet chairs' participation in the Convention programming helped bring more clarity and significance to the cabinets' work and priorities. While no final determination was made, the committee members indicated a level of interest in being involved in future Convention activities.

2. **Feedback from the Legislative Council meeting.** The chair of the Legislative Council shared information regarding that council's discussions in an effort to help the cabinet chairs prepare for their February meetings. Specifically, the Legislative Council chair shared the tone of the council's considerations regarding Proposal No. 2008-32-A Eligibility – General Eligibility Requirements – Full Time Enrollment – Requirement for Competition – Nontraditional Courses, Proposal No. 2008–32-B Eligibility – General Eligibility Requirements – Full Time Enrollment – Requirement for Competition – Nontraditional Courses – Up to 50 Percent of Minimum Requirement, Proposal No. 2008-35-A Eligibility – Progress Toward Degree Requirements – Regulations for Administration of Progress Toward Degree Nontraditional Courses and Proposal No. 2008-35-B Eligibility – Progress Toward Degree Requirements – Regulations for Administration of Progress Toward Degree – Up to 50 Percent of Minimum Requirements, and noted the membership appears to have strong and conflicting views on these proposals. There are many in the membership that believe institutions need to have autonomy in this area and that student-athletes must be treated the same as all other students and there are others in the membership concerned about the potential for abuse and compliance related issues. The Legislative Council chair noted that despite the fact 3 of the proposals were defeated, it is an issue of keen interest to the membership. He also mentioned that any information the Academic Cabinet can add to the overall dialogue on this issue would be helpful.

   The Legislative Council chair also discussed Proposal No. 2008-75 Eligibility – Freshman Academic Requirements – Eligibility For Financial Aid, Practice And Competition – Qualifier – Exception – Early Academic Certification – Submission of Transcript and Proposal No. 2008-77 Eligibility – Transfer Regulations – Two-Year College Transfers – Submission of Information Necessary to Determine Academic Initial-Eligibility Status noting that while it is clear the data these proposals are designed to collect is essential to the development of additional academic policy, there is concern by some regarding the

additional work that could be required to comply with the legislation. The Academic Cabinet was encouraged to provide additional comments at its February meeting to assist the Legislative Council's examination of these proposals in April. Additionally, all cabinet chairs were reminded that comments offered at the February meetings regarding legislation may be helpful to the Legislative Council's ultimate consideration of the proposals remaining in the 2008-09 cycle.

3. **Enhancing Communication**. The members discussed the importance of seeking to maintain a high level of communication and coordination in the governance structure, noting both areas where there appears to be progress and areas where there appears to be challenges.

   a. Communication between governance bodies. The group generally concurred that the level of coordination between governance bodies seems to be fairly good under the new structure, due in large part to the efforts of this committee. The group mentioned that depending on the issues being discussed, it may be helpful for the chairs to periodically attend the governance meetings of another cabinet or council.

   b. Communication with the conference offices and the membership. The group shared concerns about the effectiveness of communication efforts with the conferences, especially those conferences that are not represented on each cabinet. The chairs noted that enhancing the level of communication with the conferences is a priority for many cabinets, and as such, they wanted to ensure their communication efforts meet the needs of the conferences. The staff liaison reported she was scheduled to discuss this issue with the FCS/Division I commissioners during their next meeting and would report to the cabinets at their February meetings regarding the suggestions of the cabinets.

   c. Best practices regarding communication within conferences. During the course of the Convention, the chairs noted that they had an opportunity to share information regarding conference practices for disseminating governance information. The chairs reported they found the information to be helpful and thought it would be beneficial to receive additional information regarding successful conference practices.

   d. Best practices regarding governance materials. The chairs discussed the importance of ensuring there is a level of uniformity in cabinet reports to ensure governance information is easy for the membership to find and understand. The chairs discussed whether an executive summary would be helpful to the membership, yet they noted concerns that if the membership relies solely on summaries, information can be missed. The chairs agreed to work with staff to focus on writing clear reports focused on action items and key agenda topics. The chairs also agreed to work with staff to seek to identify "key take aways" from the meetings in an effort to help the membership focus on the

priority items being discussed. They suggested maybe symbols could be used to help annotate the reports.

4. **Strategies for managing a successful meeting**. The chairs discussed the fact that, under the new Division I governance structure, the tone of the council and cabinet meetings has changed from that of the former structure. Meetings now must be more focused on the substructure looking to provide advice and recommendations to contribute to the Division I agenda rather than receipt of information. As such, there must be focus during meetings on group discussions and members must engage in preparatory work in advance of meetings. It was noted that agendas may include fewer items than was typical under the old structure to ensure focus is on key agenda items. Expectations must be set that cabinet and council members will come to meetings prepared to discuss issues and participate. The chairs noted they may have to push members to contribute, and while subcommittees are not a feature of this new structure, the chairs must think creatively to get all members involved. Suggestions offered to enhance the level of engagement included assigning members to take the lead in exploring topics and allowing for group round table discussions.

5. **Task Force on Commercial Activity in Intercollegiate Athletics - Statement of Principles.** The staff explained that the Task Force on Commercial Activity in Intercollegiate Athletics has concluded its report. This guiding report includes a preamble, a historical perspective, the task force charge outlining the group's anticipated work product and a set of recommended principles. It was explained that the report encompasses a broad range of concepts that comprise commercial activity in intercollegiate athletics, ranging from taste issues to amateurism. The chairs were informed that the Board will charge the Leadership Council with managing consideration of this issue through the governance structure. Further, the Leadership Council and the substructure will be asked to develop applicable legislation in those areas where clear parameters are apparent and best practices where informed judgment and flexibility are favored. The Amateurism Cabinet, given its unique knowledge and background in issues pertaining to amateurism, should become familiar with the Statement of Principles and should anticipate being called upon to make recommendations regarding the necessary implementation details relative to that portion of the principles pertaining to amateurism.

Staff liaison: Beth DeBauche

Form 08-10a **Academic Year 2008-09**

General Amateurism and Eligibility Form for International and Select Student-Athletes – Division I

For:	NCAA Division I institutions.
Action:	Complete for each international student-athlete and file at your institution with other eligibility documents.
Due date:	The student-athlete's first day of outside competition.
Required by:	NCAA Bylaw 14.5.1.
Purpose:	To qualify international student-athletes for intercollegiate practice or competition and assess compliance with NCAA general amateurism and eligibility rules.

A. General Information.

Full Name: _____ Sport(s): _____

Other possible spellings of your name:

_____

Date of Birth: _____/ _____ /_____

Month Day Year

Home Country: _____

Government Identification Number: _____

[Note: This is similar to the U.S. Social Security Number.]

PART I: INSTITUTIONAL GUIDELINES.

To be eligible to represent an institution in intercollegiate athletics practice or competition, an international/select student-athlete shall be certified as eligible using this form. An international/select student-athlete is a student-athlete who either: (a) is not a United States citizen; or (b) resides in an unincorporated or commonwealth territory of the United States; or (c) has participated in foreign athletics activities or was associated as an athlete with a foreign athletics organization.

Each international/select student-athlete who is participating for the first time in intercollegiate athletics at the certifying institution should be given this form to complete and to sign. The form should be completed in the presence of the institution's eligibility-certification official. It may

be necessary for an institutional administrator to assist the student-athlete in understanding terms and to ensure that the student-athlete responds to all items. After the student-athlete has completed the form, the institution's eligibility official is responsible for investigating any answers that may result in ineligibility. Further, the statement must be signed by the institution's eligibility official and the student-athlete's head coach prior to the student-athlete engaging in competition. The completed form shall be maintained on file at the institution with other eligibility documents (NCAA Bylaw 14.5.1).

Please be aware that your institution is responsible for:

- Reviewing Bylaw 10.1 with the student-athlete to ensure that all information is provided truthfully and that the student-athlete is aware that further eligibility consequences could result if false and misleading information is provided.
- Verifying the validity of the information provided by the student-athlete.
- Analyzing the information submitted by the student-athlete and applying general amateurism and eligibility rules, particularly those related to amateurism, to determine the student-athlete's general eligibility. (NCAA Division I Manual citations are included after each item to assist in this effort.)
- Contacting the NCAA membership services staff for assistance in determining the correct application of NCAA rules.
- Advising the student-athlete that the information being provided through this form can affect the individual's eligibility.

[Note: International/select student-athletes also must sign the NCAA student-athlete statement, NCAA affirmation of eligibility and NCAA drug-testing consent form.]

PART II – INTERNATIONAL/SELECT STUDENT-ATHLETE INFORMATION.

[This section is to be completed by the student-athlete.]

To be eligible for intercollegiate athletics practice and competition, every student-athlete must meet all applicable NCAA eligibility requirements. As an international/select student-athlete, you are required to complete this form so that your institution may determine your eligibility under NCAA rules. You must fully disclose all information relative to the questions asked in order to determine your eligibility.

_____

This questionnaire does not relate to your admission to the school – the admissions office of your institution will handle that process separately.

You must respond to each item below and sign the form to compete in intercollegiate athletics at an NCAA institution. (Use "N/A" if the question does not apply to you.) Ask an administrator at your institution for help if you do not understand an item. (References to NCAA bylaws that follow each item are for your institution's use.) The institution's eligibility-certification official and your head coach also must sign the completed form and keep it on file at the institution with other eligibility documents.

The information you provide on this form will be used to certify your eligibility and thus may impact your eligibility to compete at an NCAA institution. In addition, under NCAA legislation you are required to provide accurate information. If you knowingly provide false and misleading information on this form it may result in additional consequences to your NCAA eligibility.

[Note: In completing the following items, please use the back of the pages if you need additional space.]

B. Educational Background.

Please list all schools attended (e.g., high schools, preparatory schools, secondary schools).

Year	School	Country	Tuition Required, Amount & Paid By	Degree Received	Graduation Date

_____

Did you attend any classes beyond high school?

(Please circle) **YES** **NO** **I DON'T KNOW**

If yes, please provide the name of the school(s) and the years attended. [Bylaw 14.2.1]

SCHOOL	YEARS ATTENDED

C. **Participation in Athletics.**

1. Date of birth: _____ Age: _____

List all athletics activities that you have participated in after your 21st birthday. [Bylaw 14.2.3.5]

ACTIVITY AND LOCATION	DATES OF PARTICIPATION

2. To be completed by ***tennis or swimming and diving*** student-athletes only.

Date of High School Graduation: _____

Please list all ***tennis or swimming and diving*** tournaments/events you competed in after graduating from high school. [Bylaw 14.2.3.2]

TOURNAMENT/EVENT AND LOCATION	YEAR

_____

3. Participation on an organized team.

Please list all organized teams you have participated on, including the dates participated and all expenses received.

TEAM AND LEAGUE	DATES PLAYED	MEALS AND LODGING RECEIVED	TRAVEL AND TRANSPORTATION EXPENSES RECEIVED	OTHER EXPENSES RECEIVED

a. Did you get paid for your participation on any of the teams mentioned in Section No. 3? [Bylaw 12.1.2] **YES NO**

b. Were any members of your team paid (e.g., salary)? [Bylaw 12.2.3.2]

YES NO I DON'T KNOW

If yes, please indicate which team paid its members.

_____

_____

c. Did you sign any type of agreement to participate on any of the teams mentioned in Section No. 3? [Bylaw 12.1.1] **YES NO**

If yes, for which team and please provide a copy of the agreement signed.

_____

_____

d. Did any of the teams you participated on call themselves a professional team? [Bylaw 12.02.4] **YES NO I DON'T KNOW**

If yes, which ones?

_____

_____

4. Additional issues.

a. Have you ever accepted any prize money for your participation in athletics: [Bylaws 12.1.1.1.5 and 12.1.1.4] **YES NO**

If yes, how much prize money did you receive? _____

If yes, what were your actual and necessary expenses directly related to the competition? _____

b. Have you accepted any other items not listed on this form from individuals other than your parents or legal guardians? [Bylaw 12.1.1.1.6]

YES NO I DON'T KNOW

c. Have you ever been involved in an advertisement or promotional activity? [Bylaws 12.1.1 and 12.5.1] **YES NO I DON'T KNOW**

If yes, please list the activities.

_____

_____

_____

d. Have you ever accepted any money or items of any kind for your participation in an advertisement or promotional activity? [Bylaws 12.1.2 and 12.5.1]

YES NO

_____

e. Did you or someone on your behalf ever pay a recruiting service or another individual to assist you in finding an institution or obtaining and athletics scholarship? [Bylaw 12.3.3.1]

_____

YES NO I DON'T KNOW

f. Who paid for your transportation to the United States?

_____

g. When did you first arrive in the United States?

_____

h. Where did you live once you arrived in the United States?

_____

i. Did you ever have any contact with an agent or anyone associated with an agent? [Bylaw 12.3.1] **YES NO**

Did you agree orally or in writing to be represented by an agent? **YES NO**

Did you accept any benefits from an agent or anyone associated with an agent? **YES NO**

Did any family member or friend accept any benefit from an agent or anyone associated with an agent? **YES NO**

j. List all official visits taken.

_____
_____
_____
_____
_____

PART III – INTERNATIONAL/SELECT STUDENT-ATHLETE INFORMATION.

[Part III of this form is to be completed by your institution's eligibility-certification officer based on the above responses.]

PLEASE PROCEED TO THE LAST PAGE AND COMPLETE THE INTERNATIONAL/SELECT STUDENT-ATHLETE AFFIRMATION AND RETURN THIS FORM TO THE APPROPRIATE ATHLETICS DEPARTMENT OFFICIALS.

PART III – INTERNATIONAL/SELECT STUDENT-ATHLETE INFORMATION.

The purpose of the information below is to ascertain whether the individual previously has been involved with a team that is considered a professional team, or received prohibited forms of pay pursuant to NCAA rules. An individual loses amateur status if he or she competes on any professional athletics team, or receives benefits not authorized by the NCAA. If the student-athlete did not know an answer to any of the above questions, it is the institution's responsibility to further investigate the information.

The following questions will enable the NCAA institution to better determine the individual's eligibility status.

Part A: Date prospect requested final certification for amateurism by the NCAA Eligibility Center: _____

Part B: High School Graduation Information.

1. Student-athlete's high school graduation date as determined by the NCAA Eligibility Center: _____

2. Graduation date of the student-athlete's high school class (as determined by the first year of high school enrollment, or the international equivalent, as specified in the NCAA Guide to International Academic Standards for Athletics Eligibility): _____

_____

Part C: Professional Team Issues.

Has the individual competed on any organized team that:

Yes	No		
_____	_____	1.	Declares itself as a professional team?
_____	_____	2.	Has any athlete on the team received for his or her participation any kind of payment, directly or indirectly, above actual and necessary expenses from a professional team or professional sports organization?

Part D: Additional Amateurism Issues.

Has the individual:

Yes	No		
_____	_____	1.	Accepted any direct or indirect salary, gratuity or comparable compensation for the individual's participation on a team?
_____	_____	2.	Received prize money or payment based on the individual's performance in competition that exceeds actual and necessary expenses from the sponsor of the event?
_____	_____	3.	Received prize money or payment based on the individual's performance in competition, including actual and necessary expenses, from an individual or entity other than the sponsor of the event?
_____	_____	4.	Received prize money or payment based on the individual's performance in competition, including actual and necessary expenses, in an event other than an open athletics event?
_____	_____	5.	Received preferential treatment, benefits or services because of the individual's athletics reputation or skill other than expressly authorized by NCAA rules?

_____ _____ 6. Received expenses to participate in a competition from the outside professional team that the individual is representing in the event?

_____ _____ 7. Entered into an oral or written agreement with an agent?

_____ _____ 8. Signed a contract or entered into an oral or written commitment of any kind for participation in professional athletics?

The individual may have jeopardized his or her amateur status and may not be eligible for intercollegiate competition in a particular sport if the answer to any of the questions in Part C is **"YES."** Therefore, it is incumbent on the institution to further investigate the individual's amateur status.

International/Select Student-Athlete's Affirmation

By signing below, I, _____, affirm that I have
(Student-Athlete's Name)
discussed the information I provided on this form with the eligibility-certification official at _____ to determine my eligibility for participation
(Name of your NCAA Institution)
in intercollegiate athletics. I have completed and reviewed the responses to the questionnaire above and agree that the information is correct. The eligibility-certification official has reviewed NCAA Bylaw 10.1 with me, and I understand that if I knowingly have given false or misleading answers to these questions, I will jeopardize my eligibility for participation in intercollegiate athletics at NCAA institutions.

_____ _____
Student-Athlete's Signature Date

[Note: You may wish to keep a copy of this form should you enroll at or transfer to another NCAA institution.]

Eligibility-Certification Official's Affirmation

By signing below, I, _____, affirm that I have
(Eligibility-Certification Official's Name)
reviewed the responses to the questionnaire above as well as other information and agree that _____ has met all academic eligibility
(Student-Athlete's Name)
requirements (including certification by the NCAA Eligibility Center, if a freshman) and other general eligibility requirements and, therefore, is eligible for participation in intercollegiate athletics.

_____ _____
Eligibility-Certification Official's Signature Date

Head Coach's Affirmation

By signing below, I, _____, affirm that I have read and understand the application of NCAA Bylaw 10.1, and the information provided by the student-athlete is accurate and complete to the best of my knowledge.

_____ _____
Head Coach's Signature Date

August 1, 2008

Ms. Angie Cretors
Assistant Director of Agent, Gambling, and Amateurism Activities
National Collegiate Athletic Association
P.O. Box 6222
Indianapolis, Indiana 46206

Dear Ms. Cretors:

As a follow-up to some conversations which we've had in regard to the publication of an NCAA brochure advising Men's Ice Hockey Student-Athletes with Remaining Eligibility about certain aspects of the annual NHL Entry Draft, this letter is a request to have your committee consider modification of existing legislation as it might apply to the annual NHL Scouting Combine. Specifically, it is felt that it would be beneficial to NCAA bound or current NCAA student-athletes if this Combine could be considered under the legislation which applies to the sport of basketball regarding professional teams' predraft basketball camp (2007-08 NCAA Division I Manual, Section 12.2 Involvement with Professional Teams; 12.2.1.1.1 and 12.2.1.2.1, pages 66-69).

The NHL Scouting Combine, in existence in various forms for more than twenty years, currently brings together the top-rated 100+ hockey players (many of whom are current or prospective NCAA players) who are eligible upcoming Entry Draft. The players, invitation only by the NHL's Dept. of Central Scouting, are brought in to a Toronto, Ont. area hotel in the final week of May each year. As per the pre-arranged requests of the NHL's 30 member teams, the players are slotted into specific times to report for personal interviews by the teams' staff of chosen administrators, scouting staff members, sport psychologists, etc. The final day of the Combine for each participant consists of a battery of Medical Screening tests by independent, NHL appointed physicians followed by a physical fitness evaluation protocol administered under the auspices of the Human Performance Laboratory of York University. There has never been, nor are there any imminent future plans for, any on-ice scrimmage or simulated game type competition at the annual Combine.

Depending on the amount of requests for personal interviews, each limited to no more than twenty five minutes, most athletes spend the better part of a full week in attendance. The NCAA players, however, due to the 48-hour limit on reimbursed visits, most frequently choose to accept the reimbursement, and thereby are forced to extend the length of their "interview days" (as all participants are required to undergo the Medical Screening and the physical fitness protocol on their final day in attendance). This lengthened first day often proves to be not only cumbersome, but also compromises the student-athletes' ability to comfortably present themselves as best they can in interviews under fatigue situations.

It is therefore proposed for your consideration that the sport of Ice Hockey be included under the provisions in existence for basketball, (NCAA Manual 12.2.1.1.1 and 12.2.1.2.1) entitled: **Exception for Predraft Basketball Camp**, entitling the NCAA hockey athlete to "accept actual and necessary travel, and room and board expenses from a professional sports organization to attend that organization's [predraft basketball] camp regardless of the duration of the camp." (*effective* 8/1/07)

Thank you to you and your fellow committee members for your consideration on the behalf of these athletes.

Sincerely,

E. J. McGuire, Ph.D.
National Hockey League
Dept. of Hockey Operations
Director of Central Scouting

AMATEURISM FACT-FINDING APPEALS COMMITTEE

The cabinet has established the Amateurism Fact-Finding Appeals Committee to allow the cabinet to make timely decisions on appeals from the Amateurism Fact-Finding Committee. The Amateurism Fact-Finding Appeals Committee consists of four members, including the chair of the cabinet (who also serves as chair of the Amateurism Fact-Finding Committee) and one member from each of the subdivisions of Division I. The vice chair of the cabinet will serve as a nonvoting member of the Amateurism Fact-Finding Appeals Committee if he or she is not already a member of the Amateurism Fact-Finding Appeals Committee.

Appeals of Decisions of the Committee/Group.

If the institution and prospective student-athlete do not agree with the determination of facts made by the committee/group, the following procedures shall apply:

(1) In Division I, after the Division I Amateurism Fact-Finding Committee has rendered a determination of facts, the involved institution may appeal that determination to the NCAA Division I Amateurism Cabinet. The Amateurism Cabinet's determination shall be final, binding and conclusive and shall not be subject to further review by any other authority.

(2) In Division II, after the Amateurism Fact-Finding Group has rendered a determination of facts, the involved institution may appeal that determination to the Management Council. The Management Council's determination shall be final, binding and conclusive and shall not be subject to further review by any other authority.

(3) All appeals of determinations of facts shall be submitted in writing within 30 days of notification of the committee/group's determination and must be based on one of the following:

   (i) The committee/group deviated from approved procedures;

   (ii) The factual findings of the committee/group are clearly erroneous; or

   (iii) Any appeal filed after 30 days must include an explanation regarding the reason(s) the appeal was not filed within the prescribed time period. The chair of the Amateurism Cabinet or the Division II Management Council shall determine whether any appeal filed after 30 days will be heard.

(4) The Division I Amateurism Cabinet and the Division II Management Council shall follow, where applicable, the general policies and review procedures for determination of facts as outlined in the NCAA Divisions I and II Amateurism Fact-Finding Committee/Group Policies and Procedures Manual.

Application or interpretation(s) of facts.

(1) After the facts have been agreed on or determined by the committee/group, the ACP staff, in consultation with an NCAA academic and membership affairs staff member, will review the facts and apply the NCAA legislation to determine if a violation has occurred and/or if season(s) of competition should be charged.

DRAFT

(2) If the institution requests an interpretation of the application of NCAA legislation to the determined facts, the ACP staff shall follow the procedures set forth in the section titled, "Appealing the interpretation and determination of a violation to the NCAA Division I Legislative Review/Interpretations Committee or the NCAA Division II Legislation Committee."

Violation(s) or season(s) of competition.

If a violation has occurred or if season(s) of competition should be charged, the ACP staff shall:

(1) Review the approved prescribed penalty schedule (provided by the student-athlete reinstatement staff) and determine the appropriate penalties. If the bylaw(s) is not listed on the penalty schedule, the team member shall forward the case to the student-athlete reinstatement staff to determine the appropriate penalty. If additional information is needed, the ACP staff shall work with the student-athlete reinstatement staff to obtain the information.

(2) Determine the number of season(s) of competition to be charged.

(3) If it is determined that a violation has occurred and if season(s) of competition should be charged, the decision shall be posted on the Eligibility Center Web site and entered in the case management system. The prospective student-athlete or the institution shall have 30 days to submit a written request to appeal the interpretation and/or student-athlete reinstatement penalty.

Reconsideration.

After the committee's/group's decision has been rendered, an institution may request that the amateurism certification staff reconsider its determination of facts if there is newly discovered, non-repetitive information that existed at the time of the decision but was not reasonably available to the institution and the prospective student-athlete. If this standard is satisfied, the ACP staff shall reconsider the case. If the ACP staff does not change its determination of facts, the committee/group chair, at the institution's request, shall review the new information and may grant a new hearing only after concluding on review of the written materials that the new information is of such importance as to make a different result reasonably probable.

DRAFT

Fallout from high school tourney ban

Andy Katz
ESPN.com
Monday, January 19, 2009

The consensus over the NCAA's move to ban coaches from attending April weekend tournaments was this: The only thing that will change will be the lack of coaches in attendance.

The tournaments will go on. The powerful summer-league coach will become even more of a force in the recruiting process, and the high school kids will still miss classes on Friday to get to these events at various places, like Pittsburgh, for a weekend schedule of games.

Oh, and the type of coach that will get hurt the most by this is the one that gets a job in March and early April needing one-stop shopping to fill up his roster for the coming season, or at least needing to get into the late recruiting pool for the November signing period.

"The events will go on; they've all got funding from sneaker companies," said Pittsburgh associate head coach Tom Herrion, who has been a longtime assistant at Providence and Virginia and a onetime head coach at the College of Charleston.

"As long as the national recruiting analysts are there, kids will go," Herrion said.

Longtime assistant coach Scott Duncan, currently at UCLA and formerly at stops like Oregon, New Mexico, Washington State and Northern Illinois, said finding a time in the spring to evaluate players will be difficult.

"You're going to have to do it on a Tuesday or Wednesday, go to the high school to see if there is a workout, to see if they can find a gym unoccupied, get a 5-on-5 together," Duncan said. "The reason it's Tuesday or Wednesday is this: Monday, the kids will be returning from the trip, and many of them travel on Thursday late to get there for Friday-Saturday-Sunday."

Duncan said if a coach is hired in March or April and he can't attend these weekend events, the coach could be forced into recruiting a player sight unseen.

"You're going to have to rely on AAU coaches, scouting-service people and a lot of word of mouth, as well as videotape," Duncan said. "The athletic directors and presidents aren't going to change the format of these events. I understand we're not sending the right message by going when they're missing school. But the tournaments will happen, absolutely. A number of those AAU [or summer-league coaches] are making a salary from the shoe company that is equal to a college assistant, and the pressure to play is immense."

Duncan said those coaches won't stand for the players not going to the event if they're on the team.

"It's going to have a huge effect on recruiting," Duncan said.

The idea from the NCAA was to curtail high school players' missing school. But no one that ESPN.com talked to over the weekend saw that as changing.

"I thought they also wanted to take away the power of the AAU coaches, but I think it puts more power in them," said Jim Storey, who runs a tournament called the Cactus Classic in Tucson, Ariz., in May. His tournament is during the dead period in recruiting, but he still has attracted some of the top players in the West.

"People are still going to hold the tournaments, and kids will still miss class time. And since there won't be enough time to evaluate players, the AAU coach will have more power because the recruiting will have to go through him to see what's going on," Storey said. "It's like the lack of text messaging, too. That rule made it to where you had to contact the AAU coach more, too. You had to recruit the kid through the coach."

Herrion said he doubted that the NCAA would allow the recruits to take unofficial visits to the nearby campus at an event, especially now that coaches can't attend them. That would be considered an unfair advantage if the local school could have contact and no other coaches could.

"We expected this to happen [not getting it overturned]," Herrion said. "It's disappointing. At the end of the day, the young kids are hurt by the lack of exposure. We'll be fine. The schools that get hurt are the mid-majors that can't evaluate the massive volumes of players in one place."

National Association of Basketball Coaches associate director Reggie Minton said there wasn't "enough traction" in the voting by the coaching members to send a strong overturn message to the NCAA convention, held last week in Maryland.

• Meanwhile, Minton said he anticipates some form of the NBA early-entry draft date rule change to occur. The ACC proposed a 10-day post-Final Four deadline to say whether you're in or out for the draft, beginning in 2010. NBA spokesperson Tim Frank said the date for declaring and withdrawing for the NBA draft is part of the collective bargaining agreement. So technically, if this were to pass, a player could say he's returning to college but then still declare for the NBA draft later in April.

The legislation didn't get a ruling at the convention. More discussion is needed, and Minton said he expects the time to be massaged, possibly longer than 10 days, but shorter than the seven weeks players have now to decide on whether to stay in the draft.

Minton said the communication with the NBA and the NCAA has never been better. When given the scenario that a player could say he's returning to college, say within 15 or 20 days after the Final Four, but then still declare for the draft by the NBA's deadline, Minton said: "The difference is he won't be allowed to come back. If you declare, you would be finished with college, whether you're drafted or not."

What could occur if this were to happen in 2010 is that agents could spend that two-week gap between the NCAA and NBA deadline trying to re-convince a player to go in the draft. We'll see what happens, but if this rule had been in place in 2008 you can almost guarantee that North Carolina players Ty Lawson, Wayne Ellington and Danny Green wouldn't have returned to UNC. They were all prepared to stay in the draft until the final days of the deadline in June.

Minton says NBA teams spend all season evaluating the player, so there is enough time. The teams, though, like to do workouts in the spring and the players want those to get a truer reading on draft status. If this is passed, you'll likely see -- at least in the early stages -- more players gamble without workouts and stay in the draft. Eventually, it will work its way out.

NCAA Takes Heat Over Commercialization of Athletes

By LIBBY SANDER

Washington

The National Collegiate Athletic Association is no stranger to criticism, and on Monday it received plenty.

During a meeting of the Knight Commission on Intercollegiate Athletics here, some higher-education officials questioned the NCAA's handling of a CBS fantasy football league, announced over the summer, that would use college athletes' names. Many members of the commission, including some university presidents, said the fantasy league represented a "slippery path" toward exploitative commercialization of college sports and faulted the NCAA for not responding more forcefully when it was created.

"They're supposed to be looking out for student-athletes," said Nicholas A. Buoniconti, a commission member, about the NCAA. Pounding his fist on the table, Mr. Buoniconti, a trustee at the University of Miami, criticized the NCAA for a "weak response" to the fantasy league.

"You should be leading the fight," he told Wallace I. Renfro, a senior adviser to the president of the NCAA, who appeared before the commission.

In response to the criticism from Mr. Buoniconti and others, Mr. Renfro said the NCAA did everything within its authority by sending a letter to CBS warning that the creation of the league could jeopardize athletes' eligibility. But beyond that, he said, the association had "not one iota of authority" to do more without universities' consent.

"I don't think it is completely accurate or fair to say the NCAA did nothing on this," Mr. Renfro said. "We have, and continue to be, examining this closely. I do not think this is a debate that is yet complete."

Commercialism or Professionalism?

The commission, long critical of the explosive commercial growth of big-time college sports, gathered here on Monday to discuss commercialization and athletes' rights, and college-sports finances. The creation of the fantasy football league is the most recent incident to capture the concern of the 23-member group, which will spend the next year researching the economics of college sports.

For Monday, at least, the commission had commercialization squarely in its cross hairs, with part of the criticism directed at the NCAA.

Mr. Renfro defended the association's position. Commercialism in the form of ticket sales, sponsorship, and advertising "is as old as intercollegiate athletics itself," he said.

The NCAA, which receives more than $500-million a year from CBS in exchange for the broadcast rights to its men's basketball tournament, has long contended that in the realm of college sports, there is a key distinction between "commercialism" and "professionalism." While professionalism goes against the NCAA's principles of amateurism, said Mr. Renfro, commercialization is "critical" to the continued sponsorship of college sports.

"Commercialism is here to stay," Mr. Renfro said. "Student-athletes are amateurs. Intercollegiate athletics is not."

Craig Krenzel, a former quarterback at Ohio State University who played two years in the NFL, said the college game was as commercialized as its professional counterpart, but with a key exception.

"I only see one distinct difference between the NFL professional version and the collegiate experience, and that is that players do not get paid for their performance on the field. And I endorse that," he said during a panel discussion at the meeting.

Athletes receive compensation enough in the form of an education and other opportunities, said Mr. Krenzel, who graduated in 2004 with a degree in molecular genetics.

Benefits for Athletes

If a loosening of amateurism rules permitted the use of college athletes' names in advertisements, fantasy leagues, and video games, other policies would have to change, too, some commission members said.

"There must be a way to balance the inequities by providing some sort of benefit to athletes through mechanisms other than 'pay for play.'" said Leonard J. Elmore, an analyst for ESPN.

The commission got a taste of what those benefits might look like from Glenn M. Wong, a lawyer and a professor of sport management at the University of Massachusetts at Amherst.

Mr. Wong presented several business models that would protect college athletes if amateurism rules were liberalized. Some of the plans would also allow athletes to benefit financially from the use of their names or images in commercial enterprises without being compensated outright in the form of a stipend or paycheck.

In one plan, universities would make football and basketball programs for-profit entities. In another, they would go the opposite route and abolish all vestiges of commercialism. Another proposal called for a trust fund for the money college athletes generate, which they could draw from for certain expenses.

None of the plans sat well with Henry S. Bienen, president of Northwestern University. If any of the business models became necessary, he said, major private universities like Northwestern would likely withdraw from big-time college athletics.

As for the fantasy football league, much of the impassioned reaction since its inception in July stems from a fear of what could come next, Mr. Bienen said. "That's why we're hearing such heated comments," he said. "It's not so much the case itself, but where it could lead us."

Financial Matters

The commission also heard a report on the financial state of the nation's biggest college-sports programs.

In May, the NCAA provided a series of "dashboard indicators" to university presidents. The new financial-reporting system, based on aggregate data supplied by institutions, features 26 indicators designed to provide more consistency and openness in financial reporting.

The data showed that 83 percent of Division I-A universities spent more money than they made in the 2006 fiscal year. At those institutions, the average amount by which expenses outpaced revenues was $8.9-million.

"When I look at the figures, I conclude that there is a financial crisis," said Andrew Zimbalist, a professor of economics at Smith College who spoke during a panel on college-sports finances.

But, he said, the dashboard indicators would be helpful in finding solutions: "If we want to know how sick the patient is, we have to have a thermometer that works."

The data also showed that the median percentage of athletics as a part of the total institutional budget was 5 percent.

But some university presidents questioned the NCAA's decision to use the total institutional budget—including professional schools, hospitals, and research grants—when calculating the percentage represented by athletics.

"That figure makes no sense," said William E. (Brit) Kirwan, chancellor of the University System of Maryland and co-chairman of the commission.

He cited the University of Michigan at Ann Arbor and the University of California at Berkeley as examples of two large public universities that, while fielding high-profile college-sports programs, have otherwise different budgetary situations: Michigan owns a hospital and runs a medical school, while Berkeley has neither.

"Five percent at Berkeley is completely different from 5 percent at Michigan," he said.

Defending the Shards of Amateurism

When CBS Sports began to use Division I college football players' names this season in its online fantasy game, the National Collegiate Athletic Association was none too pleased. The NCAA stated that this usage violated its rules and threatened its commitment to amateurism but went no further, admitting that its hands may be tied by a federal court decision that upheld the use of names.

Monday, at its first meeting since the move, the Knight Commission on Intercollegiate Athletics — an athletics reform group made up of college presidents, former athletes and other officials — criticized the commercialization of athletes in such fantasy games and urged the NCAA to show more leadership in the fight against them.

"College athletes in fantasy games and video games may seem trivial to some, but these and other forms of new media pose new challenges to the long-held distinction between commercial activity featuring teams and that which focuses on individual athletes," said R. Gerald Turner, the commission's co-chairman and president of Southern Methodist University. "We continue to believe that universities need to treat athletes fairly and equitably, and for third parties to use them in commercial products and advertisements violates that principle."

Testifying before the commission, Wallace I. Renfro, vice president and senior adviser to NCAA President Myles Brand, said that while the NCAA does not approve of the use of names in fantasy games, this "does not appear to tip the scales of amateurism." In the fight against the commercialization of college athletes — particularly regarding the CBS fantasy game — Renfro said that the NCAA, by itself, does not have the legal standing to fight a case on behalf of all athletes at its member colleges. Still, he qualified that the NCAA's lack of action in this instance did not indicate "a lack of passion" for the issue. Nevertheless, this sentiment did not sit well with some of Commission members.

"I've always been suspect of the NCAA because I don't think they represent what's best for student-athletes but what's best for the universities," said Nick Buoniconti, a commission member, University of Miami trustee, and former National Football League star. "To have such a weak response to this fantasy football league … I'm abhorred by what I've read. [The NCAA] should be leading the way."

Also critical of the NCAA's response to the CBS Sports case was William E. Kirwan, the panel's other co-chairman and chancellor of the University System of Maryland. He said he would like to see the NCAA take the initiative in organizing universities and athletes to respond to this violation of its bylaws.

While the NCAA might not be able to make a case against companies that run fantasy games, legal experts testifying before the commission argued that colleges and athletes could stand a better chance.

Glenn M. Wong, professor of sports management at the University of Massachusetts at Amherst, said athletes would be the best suited to win such a lawsuit, as many do not sign a right-to-publicity waiver when they enter their collegiate programs. This would give them legal standing to challenge the use of their names and likenesses in fantasy games. More than half of all states recognize a "right to publicity" either by virtue of explicit statutes or common law. Wong said that a class action suit that was filed in one of these states and identified many examples of this commercial usage could potentially garner the most success.

Although individual athletes can sue fantasy game operators for the use of their names, they cannot receive damages from such legal cases. Any proceeds an athlete received from a lawsuit would count as payments based on his or her athletic skill, in violation of NCAA rules. If a case were successful, it would probably be able to require only that the fantasy game operator cease and desist from using an athlete's name. A successful class action suit could create a precedent, changing the rule for all fantasy game operators.

Kerry Kenny, NCAA Division I Student-Athlete Advisory Committee chair and former Lafayette College basketball player, said fantasy games added no value to college sports. He said they merely allowed fans to live vicariously through athletes. Kenny said a young player might not be able to handle additional heckling from fellow students and fans, adding that no college athlete should hear, "Hey, you screwed up my fantasy team this week."

Marvin Lewis, associate athletic director at Georgia State University and former Georgia Institute of Technology basketball player, said he and his fellow teammates were generally excited to see their numbers and likenesses in college video games. Unlike fantasy game operators, video game creators have abided by NCAA rules and not used athletes' names in their products. He added that a similar excitement would likely pervade in the event that names were also used. In the instance of likenesses in video games, Lewis said he and his teammates were not concerned about the money but simply enjoyed being a part of the fabric of college athletics and the exposure.

Kenny and Lewis, however, agreed — as did most members of the Commission — that third-party businesses should not be allowed to profit from the names and likenesses of college athletes. Both suggested that the education and other assistance provided to them by their supporting institutions was enough to justify the profit — if any — that their institutions garnered from their play. Only 19 institutions in Division I recorded a net profit from their college athletics programs in 2006, according to the most recent data from the NCAA.

While all of the recent athletes who testified before the commission — the panel also included Jeremy Bloom, a former University of Colorado football player, and Craig Krenzel, a former Ohio State University quarterback — agreed that college athletes should not be paid for their play like professionals, they suggested that the NCAA should consider other methods of supporting its athletes. A few commission members agreed.

"If college athletes' names and likenesses are to be used in commercial products, advertisements or fantasy sports games, there must be a way to balance the inequities by providing some sort of benefit to athletes through mechanisms other than 'pay for play,' " said Len Elmore, a commissioner and ESPN analyst.

Aside from an "all-in" or "all-out" approach to commercialism in college athletics, Wong offered two additional models for athlete compensation that fall somewhere between the extremes. He suggested the creation of an "exceptional student-athlete fund" in which profits and other money generated from an individual institution's athletics program would be pooled and divided among athletes for explicit purposes. Individual institutions would have to determine who would be eligible for such funds and how it would be divided, whether equitably or based on what an athlete would have earned from promotion. This fund would financially assist athletes with expenses associated with student services, insurance and, potentially, graduate school. Additionally, he suggested a similar model in which institutions could set up a trust fund for certain athletes who showed professional promise; this fund could be drawn on for similar expenses during their career or at its conclusion.

These potential models — though simply broad suggestions for consideration and discussion — were met with some resistance by some commission members. Henry Bienen, Northwestern University's president, said that if such measures were taken, it would exacerbate the perception and argument among some commentators that universities already privilege their athletes above other students. He said these models of alternative forms of support — aside from direct compensation — would put amateurism at the "tipping point."

The Knight Commission will meet again in January to further consider the financial issues facing college athletics.

— David Moltz

The original story and user comments can be viewed online at http://insidehighered.com/news/2008/10/28/knight.

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NCAA unlikely to wage war on fantasy site

Jack Carey
USA Today
October 28, 2008

The emergence of fantasy sports leagues using collegiate athletes' names and statistics in apparent disregard for NCAA amateurism principles has the attention of the reform-minded Knight Commission on Intercollegiate Athletics, which debated the topic at Monday's meeting where commission member Nick Buoniconti criticized the NCAA for what he called a "weak response" to the issue.
The CBS site Sportsline.com this year introduced a fantasy football game that utilizes NCAA players and their statistics, after a court ruling over a similar issue involving major league baseball players was decided in favor of another fantasy league provider.

The NCAA asked CBS to cease implementation of the football league because of the association's amateurism bylaws but has been reluctant to take legal action because of the court ruling in the baseball case.

CBS pays the NCAA $6.2 billion for the rights to the annual Division I basketball tournament.

Buoniconti, a former Miami Dolphins star, who serves on the Board of Trustees at Miami (Fla.), chided the NCAA for not standing up for players.

"I've always though the NCAA doesn't act as an advocate for student-athletes but represents universities," he said. "The NCAA should be leading the fight for student-athletes. Go back and examine your response to fantasy football and every other area of commercialization that could exploit student-athletes. Go back and review what your purpose is."

Wally Renfro, senior advisor to NCAA president Myles Brand, said understood the sentiment but maintained the NCAA's hands are tied.

"I think no matter how passionate you feel about this, I've yet to hear an argument that the association has the standing to take this on legally," Renfro said. "The association does not own the publicity rights of the student-athletes, and that's what this case is about. The association has taken on a number of cases in which it has looked at protecting the rights of the student-athlete. This is one in which the association has not been able to identify a standing for doing so."

Although players themselves could likely try to take CBS or a similar fantasy game provider to court, Renfro said he's not sure if anyone wants to.

"I've not heard an uproar or even a murmur (from players) that they take issue with this," he said. "I'm not going to say they don't care. I'm just unaware what their position is."

Former Ohio State quarterback Craig Krenzel, addressing the commission on athletes rights and commercialization, said he'd like to see former players who are now college administrators or in the business world form an advocacy group for current and future players. One idea, he said, would be to explore the possibility of fantasy league providers setting aside some profits from the games to fund post-graduate scholarships for athletes.

"There probably needs to be athletes or former athletes spearheading such a campaign, working in conjunction with the NCAA and universities and conferences to try to secure the brightest future for these student-athletes," he said.

CBS had no comment on Krenzel's suggestion, according to LeslieAnne Wade, senior vice president of communications. Neither would the network release the number of fantasy players in its football game. There is no cost to enter games and no prizes are awarded. And, according to Wade, while a basketball fantasy game has been discussed, there is nothing officially planned yet.

One site, U-sports.com, charges to play its college fantasy game and advertises $35,000 in prizes.

The issue of athletes rights continues the long debate over whether players should ever be compensated. But after Northwestern president Henry Bienen said athletes already receive thouusands of dollars in scholarship money and special services like tutoring, Buoniconti, a former Notre Dame player, said during a break, "That's bull. We earrn every single nickel of that scholarship. We put seats in the stadiumm. We put seats in the skyboxes. What do you tink the TV networks are showing?"

The commission also received a report from James Isch, the NCAA's senior vice president of administration and chief financial officer, on the association's efforts to improve the accuracy of financial data reported by Division I athletic programs and on the overall health of Division I programs.

In fiscal year 2006, the report showed, only 19 of 118 schools in the NCAA's Bowl Subdivision (formerly I-A) generated revenue that exceed their expenses. The 99 schools who had expenses exceeding revenues lost an average of $8.9 million that year.

Sports economist Andrew Zimbalist, a professor of economics at Smith College, said that since some coaches are making as much as eight or 10 times more money than presidents of universities, the NCAA should seek an antitrust exemption from Congress in order to reign in salaries and implement more control.

"That idea has been talked about from time to time, virtually for as long as I can remenber," Renfro said. "But it's never been one that has gained much popularity among our membership, that has been perceived as one that we would have high success at getting, or that if we got, would necessarily be one that member institutions would ascede to.

"At the end of the day, even if you had the exemption, member institutions would have to agree to cede authority to the association to have a larger role in determining spending than it does today. And institutions are very jealous of their autonomy in that area, because (schools) are so varied in nature. It's so difficult to find a path that is satisfactory to a majority of institutions."

The education of Brandon Jennings

By Adrian Wojnarowski, Yahoo! Sports *15 hours, 18 minutes ago*

Having celebrated his 19th birthday with his mother and younger brother at a restaurant in Rome, basketball's most important young player climbed inside a Volvo wagon for the drive home and started talking about the biggest rookie burden since Kevin Garnett. Life isn't so different in Italy, Brandon Jennings said with a laugh on his cell phone. They speak English. There's Burger King and McDonald's. The Hard Rock Café has good burgers and good music.

"The only difference is that we don't have a dryer," Jennings said late Tuesday night. "We hang our clothes on a line."

Back in the States, Jennings understands what they're waiting to hear: Oh, I made such a mistake with a leap out of Compton, Calif., to Virtus Roma of the Italian League. They won't let me play my game. I'm all alone. The Euro League is no place for an American teenager trying to do his purgatory year before entering the NBA draft.

Back home, the college basketball propaganda machine is waiting to issue it's typical "I told you so's" about how life in its warped system is somehow still beneficial. Jennings heard it all on his way out, and still hears it across the Atlantic Ocean. Just understand something: He's a point guard learning to see the floor, to open his mind, and the education of Brandon Jennings is well underway.

"I know what they have all been saying, because I even heard it from my friends, that I'm going to be a bust. And a whole different culture is going to mess up my game," Jennings said. "I would've loved to have gone to college, and I'm sure I would've learned a lot there, but I'm learning a lot more over here.

"I know this is a real big thing. I'm the first high school kid to jump straight to Europe instead of college and I know a lot of people, a lot of kids, are keeping up with me to see how I'm doing. If I do what I'm supposed to do here, and come back (to the U.S.) better for it, I have a chance to change basketball."

He is thinking globally, but acting locally. For Jennings, a slicing, explosive 6-foot-2 lefty, has to be a grown-up in Rome. He has to survive the physical and mental toll of a long Euro season. He doesn't have to always play great, but he has to never back down. He has to leave behind the AAU culture, the one-on-one mentality of grassroots American ball and immerse himself in a Euro game that rejects those false basketball gods.

Jennings is an experiment that has repercussions at every level of basketball. If this goes right, European franchises will be inspired to invest in the next year's high school class. Kids who don't want college – and maybe don't belong – won't have to play that foolish one-and-done game. Sonny Vaccaro made this deal happen, and promises there's a line down the street and around the corner wanting to follow a Jennings success story.

As much as anything, that makes Jennings pro basketball's most important rookie since Garnett re-started high school stars going straight to the NBA in 1995. Thus began more than a decade of decay in college basketball that was eventually addressed when NBA commissioner David Stern instituted a one-year wait on high school seniors wanting to make the leap to the pros. Jennings has a three-year contract for a guaranteed $1 million, but he also has an out to enter the NBA draft after Year 1 and 2 of the deal. Under Armour just gave Jennings a four-year endorsement deal, banking that he could do it all, and more.

"To me, this is the best path to get ready for the NBA," one Western Conference general manager said. "But the thing is: You better be a mentally tough kid to pull this off. This isn't going to be college, where they're going to hold your hand and never make you figure out anything for yourself."

Virtus coach Jasmin Repesa introduced his young millionaire to pro ball in the first week of training camp, insisting that he had to play hard all the time. Alone in that locker room, it hit Jennings again: This is the best thing that ever happened to him. As money goes, the NBA Developmental League can't come close. As coaching and competition go, the Euro League is mostly superior. There are no NCAA limits on practice time. There are no AAU bagmen pretending to be assistant coaches. Jennings will get coached and get benched and get the best-paying professional apprenticeship in history.

"We just got back from a three-day road trip to Serbia, and it was three days on the road with older guys, where I had to work to fit in," Jennings said. "This is the pro life. Nobody is babysitting me. The biggest thing for me is this: I have to prove myself. I want to let these guys know that I'm here to help them win. I don't want them to think that I'm just some hotshot American kid trying to take all the shine here so I can set myself up for the NBA draft.

"Here, it isn't like what basketball was in the U.S., where everyone just sits back and watches the individual player. It's team first here. People come to watch the team play, and the team win. What I want to do is build relationships with my teammates, with my coaches. That's what people are wondering if I can do …"

As it turned out, Jennings' four-year contract with Under Armour will pay him comparably to the top three picks in the 2008 NBA draft. Between sneakers and salary, sources say, Jennings is making over $1 million a year. Under Armour hired Kris Stone, a magazine publisher and architect of the Elite 24 High School event in New York, to start a basketball branding division and he immediately made a shrewd investment: Let's compete with Nike and adidas to sign the teenager who could become his generation's trail blazer. New basketball company, new basketball frontier. Stone had a history with Jennings, a relationship born out of his All-Star game, and always believed this was the right talent, the right kid, to make this happen.

Vaccaro sold Virtus and Jennings on the Under Armour partnership, negotiating the contracts and shoe deals. To Vaccaro, the godfather of the basketball shoe deal, this feels like it did when he put Nike and Michael Jordan together in 1984. "This is almost like what Michael did, because he could've gone to adidas, which was still part of Converse," Vaccaro said. "Nike was

practically nothing. I told Brandon and his mother: 'If you hit with Under Armour, you're the man there.' "

Now, the telephone calls of intrigued parents are flooding into Vaccaro, who always has been able to see where it was all going before everyone else. "In essence, the age limit has been broken," he said. "If Brandon can come back in one piece, the others are going to go. For the right kids, we won't have to play 'pretend' anymore with college basketball."

Outside the NBA, the most intriguing games in the world this season will be the two meetings of Jennings and Virtus Roma with Ricky Rubio and Spain's DVK Jovenut. Those are the nights everyone in the Euro League will want to see, the best two young point guards on the planet playing far, far away from the college game.

"Yeah, yeah, I hear all about that," Jennings said. "I've got a lot more to worry about than that, because there are so many great players over here. I better get used to playing with grown men, and I better learn to adjust to the Euro system. I can't just be 'that guy,' worried about the hype of those games with Ricky Rubio. I know everyone is watching to see what happens with me all the time, not just then …"

He just turned 19, his basketball burden is immense, and Brandon Jennings swears that he understands the truth. Like his laundry, the kid hangs out on a line in Italy.

A different kind of Love

Former UCLA star left college after one season to pursue his NBA dream, but he's on a losing team for the first time

Jill Painter
The San Bernardino Sun
12/15/2008

Kevin Love still loves his life. Why shouldn't he?

He's playing in the NBA, doing what he loves to do, and getting paid handsomely to do it. It's just that his life has changed so dramatically, he's still trying to find his way some days.

No longer can he walk out of his apartment in December wearing a sweatshirt and shorts like he did at UCLA. Now, he wears a jacket, boots, sweaters, scarves and such.

He's a popular figure around Minnesota, but he was The Man on UCLA's campus.

Baskets and outlet passes and victories were guaranteed not so long ago. He loved March Madness and led UCLA on a run to the Final Four. Love had everything but an NCAA championship last year.

He's now fetching coffee and donuts for his teammates. He wasn't the star attraction in the Timberwolves' game against the Lakers Sunday at Staples Center, scoring just two points on 1-for-5 shooting while pulling down 10 rebounds.

But at least one fan sported his old No. 42 UCLA jersey, the same one that graces the EA Sports NCAA `09 college basketball video game.

But just 22 games into his NBA career with the Minnesota Timberwolves, he's already lost more games than his previous five years combined. Minnesota is just 4-18, and basketball, something that once came so easy, is suddenly so tough sometimes.

Last week, the gifted free-throw shooter missed 7 of 9 free throws against Utah.

It was very un-Love like.

Love's girlfriend is still going to school at UCLA. So yes, there are days when he goes home to his self-help books and view of the Minneapolis River and wonders what it would've been like if he hadn't jumped to the NBA after his freshman season.

"Absolutely," Love said before his first career NBA game in Los Angeles. "I talked to guys in my class like Derrick Rose, Michael Beasley, O.J. Mayo, Russell Westbrook, all those guys. If it made sense, which it did, they left. If it didn't make sense we would've gone back. In today's day and age with the one-year rule - unlike my situation, some are getting out of poverty and taking care of their families, so it makes it easy for them."

It wasn't as easy for Love to leave college life behind as some people might think. Many fans on message boards and blogs don't even consider Love an ex-Bruin because his time in Westwood was so brief.

Love loved college life, don't get him wrong, but the 6-foot-9 forward wanted to live out his dream in the NBA.

"He's done the right thing," said his father, Stan Love. "He's enjoying himself. Once he goes around the league a couple of times, he'll figure everything out."

He's figuring out that leaving school was tougher than he thought.

"It was bittersweet," Love said. "I was happy to leave because I was achieving my dream. But I didn't want to leave because I made so many friendships and played so well and played under coach (Ben) Howland. I wasn't necessarily shocked by (fans') reaction."

Some might take delight in Love's plight, as Minnesota already is 11 games behind Denver in the Northwest Division. Love's first coach, Randy Wittman, was fired last week, and now Love is playing for Kevin McHale.

Perhaps, he's trying too hard some nights. Love is 20, but McHale said he's trying to play like a 25-year-old with five years of professional experience.

"He really brings a lot of energy and a great basketball feel," McHale said. "I think he's been tremendous and played well. He has great hands. He's getting better all the time. He's stronger. I keep trying to tell him that he's so much more advanced than most 20-year-olds.

"Losing is tough. There's no doubt about it. He's working at it. We're working at it as a team."

Love is stronger, too. He's lost about 20 pounds from his playing weight at UCLA and is down to 250. He's still working at shaping his body. But working on his mind is an ordeal, too.

"I've been the man my whole life in high school and junior high and college," Love said. "(Now) you're the low man at the food chain. You have to pick yourself back up and just become a man."

Love is averaging 9.1 points per game and 7.9 rebounds. He's started five games and could see more playing time soon.

Love was selected fifth overall by Memphis in the June NBA draft, then dealt for O.J. Mayo and others to Minnesota in a late-night draft day deal.

Guarding big men isn't so easy. Some are bigger than he thought, others aren't. But Love is trying to take tips from Elton Brand and Carlos Boozer, and maybe next time he plays against them, he'll be a little better.

"Four and 18, that's tough for me," Love said. "I've won my whole life. Coming out here and not winning many games has been tough. The first two or three weeks I lost more games than high school and college combined. It's been an adjustment. It's tough on the mind as well."

Love lives with his older brother Collin, so he can bounce things off him. He also calls home to chat with his mom and dad. Stan Love was a former Laker and traveled to every one of Love's games last season.

"When you have the opportunity, you have to take it," Stan Love said. "You can't pass on an opportunity like that. You never know what would've happened next year at UCLA."

Kevin Love just never knew it might be quite like this, either.

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MEMORANDUM

November 14, 2008

TO: Football Student-Athletes with Remaining Eligibility.

FROM: Rachel Newman Baker
Director of Agent, Gambling and Amateurism Activities

Steve Mallonee
Managing Director of Membership Services/Division I Governance Liaison.

SUBJECT: Information Regarding the 2009 National Football League (NFL) Draft, Tryouts, and Agents.

We understand that you may have remaining intercollegiate eligibility, but may also have a desire to "test the waters" as it relates to your pursuit of a potential professional football career. You will attempt to gauge your readiness for competition at the next level through a variety of methods, including tryouts with professional teams and you will undoubtedly rely on a number of individuals to assist in the decision-making process.

At the end of this process, you may in fact reach the conclusion that it is not in the best interest to pursue a professional career at this time, but rather to continue athletics participation at the intercollegiate level while pursuing your academic degree.

Involvement in activities during this process can affect your intercollegiate eligibility. The following information is designed to help you protect your eligibility while you "test the waters."

Five Points to Remember:

You will lose your eligibility IF:

1. You agree orally or in writing to be represented by an agent or any individual acting on behalf of the agent [e.g., runner].
2. You accept any benefits from an agent, a prospective agent or any individual acting on behalf of the agent [e.g., runner].
3. If you participate in a tryout with an NFL team that lasts longer than 48 hours, which you have not personally financed. .
4. If you tryout with a professional team during the academic year and miss class.
5. If you enter the draft AND do not take the appropriate steps to withdraw and declare your intention to resume intercollegiate participation.

Key Dates:

- College Advisory Committee evaluation request deadline (to ensure an evaluation is completed): December 19, 2008.
- College Advisory Committee evaluation request final deadline (with no guarantee that an evaluation will be completed): January 4, 2009.
- Early-entry deadline for underclassmen: January 15, 2009.
- Early-entry withdrawal deadline for underclassmen: 72 hours after early-entry deadline (midnight, January 18, 2009).
- NFL Combine: February 18 to 24, 2009, in Indianapolis, Indiana.
- 2009 NFL Draft: April 25 and 26, 2009, in New York.

Frequently Asked Questions

Entering the Draft

1. *Am I allowed to enter the NFL draft early?*

   YES! You may enter the NFL draft one time during your collegiate career without jeopardizing your eligibility; provided you are not drafted by any team and you declare your intention to resume intercollegiate participation within 72 hours following the NFL's draft declaration date. This declaration of intent must be in writing to your director of athletics. Players that enter the NFL draft early are required to sign, and have notarized, a petition for special eligibility with the NFL, which renounces all remaining collegiate eligibility unless revoked within 72 hours of the draft declaration date.

2. *May I request information from the NFL about my potential draft status without jeopardizing my eligibility?*

   YES! You may personally request information from the NFL about your potential draft status without jeopardizing your eligibility. The NFL has a College Advisory Committee, which is comprised of a group of general managers/personnel directors of NFL clubs and the directors of the NFL's two scouting combines. Under this program student-athletes that are at least three years out of high school, may receive a general assessment of their draft potential. Players will be advised of one of the following by the committee: (a) that they have the potential to be drafted as high as the first round, (b) that they have the potential to be drafted as high as the second round, (c) that they have the potential to be drafted as high as the third round, (d) that they do not have the potential to be drafted in the first three rounds, or (e) that they do not have the potential to be drafted. The committee's evaluation is non-binding and does not guarantee or assure a specific round, but it does provide an underclassman with an unbiased opinion of where they may stand in the draft. The College Advisory Committee is a method where knowledgeable people, with no financial interest in the matter, can give a student-athlete an informed assessment of his draft chances. The period for applying for an evaluation from the

College Advisory Committee is between the end of the regular football season and January 4, 2009. Evaluations will be accepted after the conclusion of a player's regular season. In order to ensure that an evaluation is completed, requests should be received by the College Advisory Committee no later than Friday, December 19. Though requests will be accepted through Sunday, January 4, there is no guarantee that an evaluation can be completed for requests received after December 19. A representative of the commissioners' staff will respond to the involved player, and the NFL and the player are to keep the evaluation confidential.

NFL Combine and Tryouts

3. *Am I allowed to participate in the NFL combine in February and maintain my eligibility?*

   NO! The NFL combine occurs from February 18 to 24, which is after the deadline for withdrawing from the NFL draft. Only players who have committed to entering into the NFL draft are allowed to participate in the NFL combine.

4. *Can I participate in private workouts/tryouts with NFL teams if school is still in session?*

   YES! You may tryout with an NFL team (or participate in a combine including that team) during the academic year if you are enrolled full-time as long as you don't miss class. You may also tryout with an NFL team during the summer provided that the tryout does not exceed 48 hours and you have not received more than actual and necessary expenses from the team.

5. *Can I participate in on-campus "pro days" for NFL teams if school is still in session?*

   YES! Participation in on-campus pro days for NFL teams is considered participation in a tryout for an NFL team. If you are enrolled as a full-time student at the institution you may participate in these workouts provided that you don't miss any class time.

6. *Am I allowed to receive a medical examination from the NFL scouting bureau if school is still in session?*

   YES! A single scouting bureau recognized by the NFL is permitted to conduct one medical examination during the academic year without jeopardizing the student-athletes' eligibility, provided that examination does not occur off campus.

7. *Can NFL teams pay for my private workouts/tryouts?*

   YES! You may receive actual and necessary expenses from the NFL team in conjunction with one 48-hour tryout per team (or combine including that team). The 48-hour tryout period begins when you arrive at the tryout location. At the completion of the 48-hour period you must depart the location of the tryout immediately in order to receive transportation expenses.

8. *Can I pay for my own private workouts/tryouts with NFL teams?*

   YES! A tryout may extend beyond 48 hours if the individual self-finances additional expenses, including return transportation. A self-financed tryout may be for any length of time, provided you don't miss class.

9. *Can any other individual (e.g., agent, runner, or "advisor") pay for my private workouts/tryouts with NFL teams?*

   NO! Unless an NFL team pays for your expenses in conjunction with a private workout or tryout, you and your family are responsible for paying all expenses associated with any tryouts as they are incurred.

Agents

10. *What is an "agent" according to NCAA rules?*

    An individual would be considered an "agent" if the individual markets your football skills to any NFL team or other professional teams (e.g., contact NFL teams to discuss your skills, set up tryouts with NFL teams).

11. *Am I allowed to have any type of agreement with an agent?*

    NO! You are not permitted to have a written or oral agreement with an agent, or anyone who is employed by or acting on behalf of an agent or sports agency (i.e., "runner").

12. *What is an "oral agreement" with an agent?*

    An oral agreement occurs if you verbally agree to have an agent perform any services (e.g., providing any expenses related to tryouts, arranging disability insurance, etc.) on your behalf OR you have knowledge that an agent is performing such services.

13. *Is an agent allowed to contact teams on my behalf to arrange private workouts or tryouts?*

    NO! You cannot have an agent arrange a private workout/tryout with an NFL team.

14. *Can my family members or other individuals who are associated with me as a result of playing football (e.g., high school coach, summer football coach, etc.) have an agreement with an agent to perform services on my behalf?*

    NO! Family members and other individuals are not permitted to enter into any agreements with an agent on your behalf.

15. *Am I allowed to have an agreement with an agent if it is for future representation?*

    NO! You are not permitted to agree to a future representation agreement with an agent.

16. *Is an agent allowed to provide me any benefits?*

    NO! You, your family, or your friends are not permitted to receive any benefits from an agent. Examples of material benefits include money, transportation, dinner, clothes, cell phones, jewelry, etc. However, benefits may also include, but are not limited to, activities such as tryout arrangements with a professional team and coordinating tryout schedules.

17. *Am I permitted to have an advisor during this process?*

    YES, provided the advisor does not market you to NFL teams. However, an advisor will be considered an agent if they contact teams on your behalf to arrange private workouts or tryouts.

18. *Can an institution cancel my athletics scholarship if I have an agreement with an agent?*

    YES! An institution is permitted to rescind your athletics scholarship if you have an agreement with an agent.

19. *What is the National Football League Player's Association (NFLPA) rule regarding agent contact?*

    An NFLPA certified agent, or any representative or person affiliated with an NFLPA certified agent, including "runners"/recruiters, financial advisors and marketing representatives is prohibited from speaking to individual prospective players or presenting to groups of prospective players who are ineligible for the NFL draft.

20. *What will happen to me if an agent contacts me in violation of the NFLPA rule regarding agent contact?*

    Under the NFLPA rule, an agent is not allowed to contact prospective players that are ineligible for the NFL draft. However, the NCAA does not prohibit this contact, and a student-athlete would not be punished for communicating with an agent while ineligible for the draft, as long as the student-athlete, and his family and friends, do not have an agreement for representation with the agent, and do not receive any benefits from that agent or any of his representatives.

Helpful Tips:

- You should keep your head coach and compliance coordinator informed of all activities during this process.

- Be careful who you associate with during this process. Do it all yourself or work through your head coach. You may receive the assistance of your family members, provided they are not working with any individual who is marketing your athletics ability (e.g., contacting NFL teams, setting up tryouts with NFL teams).
- If you do not have knowledge of who arranged a tryout, you have a responsibility to find out who did.
- The NFL has had a great amount of success counseling underclassmen through its College Advisory Committee. Student-athletes should not be hesitant in utilizing this service because it provides unbiased information from the same people who will be evaluating talent for the draft. Between 1994 and 2008, 1,178 players were evaluated by the College Advisory Committee and 67 percent of the players evaluated elected to remain in school. The NFL's College Advisory Committee can be reached at the following address: College Advisory Committee, Attention: Player Personnel Department, National Football League, 280 Park Avenue, New York, New York 10017, Phone: 212/450-2215.
- You should remain in school and complete your academic courses while you "test the waters."
- If you have questions regarding this information, please contact the NCAA agent, gambling, and amateurism activities staff at 317/917-6866 or rnewman@ncaa.org.

SIGNATURE

Please sign your name and date below, which confirms that you have reviewed and understand this form and the information contained therein. I understand that if I am found to be in violation of the provisions of any of the information mentioned above, I may be declared ineligible for further intercollegiate competition.

Student-Athlete Signature	Date
Printed Name	Institution
Head Coach	Date
Compliance Officer	Date

RNB/SM:esb

SUPPLEMENT NO. 13-b
DI Amateurism Cabinet 2/09

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MEMORANDUM

January 26, 2009

TO: Men's Ice Hockey Student-Athletes with Remaining Eligibility.

FROM: Rachel Newman Baker
Director of Agent, Gambling and Amateurism Activities

Steve Mallonee
Managing Director of Academic and Membership Affairs/Division I Governance Liaison.

SUBJECT: Information Regarding the 2009 National Hockey League (NHL) Draft, Agents, and Tryouts.

We understand that you may have remaining intercollegiate eligibility, but are also eligible to be drafted in the upcoming 2009 National Hockey League (NHL) draft scheduled for June 26 and 27. To assist you in making the best possible decision, the following document has been developed to help you sort through some of the issues that you, your parents and your institution may confront.

You will attempt to gauge your readiness for competition at the next level through a variety of methods, including tryouts with professional teams and you will undoubtedly rely on a number of individuals to assist in the decision-making process.

At the end of this process, you may in fact reach the conclusion that it is not in the best interest to pursue a professional career at this time, but rather to continue athletics participation at the intercollegiate level while pursuing your academic degree.

Involvement in activities during this process can affect your intercollegiate eligibility. The following information is designed to help you protect your eligibility while you "test the waters."

Four Points to Remember:

You will lose your eligibility IF:

1. You agree orally or in writing to be represented by an agent or any individual acting on behalf of the agent [e.g., runner].
2. You accept any benefits from an agent, a prospective agent or any individual acting on behalf of the agent [e.g., runner].

3. If you participate in a tryout with an NHL team that lasts longer than 48 hours, which you have not personally financed.
4. If you tryout with a professional team during the academic year and miss class.

Key Dates and Information:

NHL Scouting Combine (by invitation only): May 25-31, 2009
NHL Draft (Montreal): June 26-27, 2009

Frequently Asked Questions:

1. *Who is eligible for the NHL Draft?*

NHL Collective Bargaining Agreement § 8.4

All players age 18 or older are eligible for claim in the Entry Draft, except:

(1) a Player on the reserve list of a club, other than as a try-out;

(2) a Player who has been claimed in two prior Entry Drafts;

(3) a Player who previously played in the [National Hockey] League and became a free agent pursuant to [the NHL Collective Bargaining] Agreement; a Player age 21 or older who: (A) has not been selected in a previous Entry Draft and (B) played hockey for at least one season in North America when he was age 18, 19, or 20 and shall be eligible to enter the [National Hockey] League as an Unrestricted Free Agent pursuant to [the NHL Collective Bargaining Agreement]; and

(4) a Player age 22 or older who has not been selected in a previous Entry Draft and shall be eligible to enter the [National Hockey] League as an Unrestricted Free Agent pursuant to [the NHL Collective Bargaining Agreement].

2. *What if I was not signed by an NHL team?*

A player not signed by his NHL team within two years of being drafted can re-enter the draft, as long as he is 20 years old or younger at the time of the subsequent draft. Players over 20 become unrestricted free agents.

NCAA players are an exception: In most instances, an NCAA student-athlete or someone who becomes an NCAA student-athlete in the sport of men's ice hockey prior to June 1 after being drafted in the NHL Draft will have his contract rights retained by his drafting club until August 15 following the graduation of his college class as long as he remains in school. Even if that drafted student-athlete were to leave school before his class graduates, his drafting club would hold rights to sign him until June 1 of the year four years after he was drafted.

NHL Collective Bargaining Agreement § 8.6(c)(i)-(ii)

If a Player drafted at age 18 or 19 is a bona fide college student at the time of his selection in the Entry Draft, or becomes a bona fide college student prior to the first June 1st following his selection in the Entry Draft, and remains a bona fide college student through the graduation of his college class, his drafting Club shall retain the exclusive right of negotiation for his services through and including the August 15th following the graduation of his college class....[If he] does not remain a bona fide college student through the graduation of his college class, his drafting Club shall retain exclusive rights for the negotiation of his services until the fourth June 1st following his selection in the Entry Draft.

3. *Can my college coach arrange and schedule a professional team workout/tryout on or off campus outside the playing season during the academic year?*

NO! It would not be permissible for a student-athlete's institutional coach to organize and be present during a professional tryout that occurs on or off campus outside the playing season during the academic year.

4. *Can NHL teams pay for my private workouts/tryouts?*

YES! You may tryout with an NHL team during the academic year if you are enrolled full-time as long as you do not miss class. You may receive actual and necessary expenses from the NHL team in conjunction with one 48-hour tryout per team. The 48-hour tryout period begins when you arrive at the tryout location. At the completion of the 48-hour period you must depart the location of the tryout immediately in order to receive transportation expenses.

5. *Can any other individual (e.g., agent, runner, or "advisor") pay for my private workouts/tryouts with NHL teams?*

NO! Unless an NHL team pays for your expenses in conjunction with a private workout or tryout, you and your family are responsible for paying all expenses associated with any tryouts as they are incurred.

6. *Can I pay for my own private workouts/tryouts with NHL teams?*

   YES! A tryout may extend beyond 48 hours if the individual self-finances additional expenses, including return transportation. A self-financed tryout may be for any length of time, provided you don't miss class.

7. *What is an "agent" according to NCAA rules?*

   An individual would be considered an "agent" if the individual markets your hockey skills to any NHL team or other professional teams (e.g., contact NHL teams to discuss your skills, set up tryouts with NHL teams).

8. *Am I allowed to have any type of agreement with an agent?*

   NO! You are not permitted to have a written or oral agreement with an agent, or anyone who is employed by or acting on behalf of an agent or sports agency (i.e., "runner").

9. *What is an "oral agreement" with an agent?*

   An oral agreement occurs if you verbally agree to have an agent perform any services (e.g., providing any expenses related to tryouts, arranging disability insurance, etc.) on your behalf OR you have knowledge that an agent is performing such services.

10. *Is an agent allowed to contact teams on my behalf to arrange private workouts or tryouts?*

    NO! You cannot have an agent arrange a private workout/tryout with an NHL team.

11. *Can my family members or other individuals who are associated with me as a result of playing hockey (e.g., high school coach, nonscholastic coach, etc.) have an agreement with an agent to perform services on my behalf?*

    NO! Family members and other individuals are not permitted to enter into any agreements with an agent on your behalf.

12. *Am I allowed to have an agreement with an agent if it is for future representation?*

    NO! You are not permitted to agree to a future representation agreement with an agent.

13. *Is an agent allowed to provide me any benefits?*

    NO! You, your family, or your friends are not permitted to receive any benefits from an agent. Examples of material benefits include money, transportation, dinner, clothes, cell

phones, jewelry, etc. However, benefits may also include, but are not limited to, activities such as tryout arrangements with a professional team and coordinating tryout schedules.

14. Am I permitted to have an advisor during this process?

YES, provided the advisor does not market your athletics ability or reputation to NHL teams. However, an advisor will be considered an agent if he or she contacts any team on your behalf to determine draft status or arrange private workouts or tryouts. Under NCAA regulations, you and your parents are permitted to receive advice from a lawyer or other individual concerning a proposed professional sports contract. In this regard, it is permissible for an advisor to discuss with you the merits of a proposed contract and give you suggestions about the type of offer you should consider. In order to maintain your eligibility at an NCAA school, however, you may not use this advisor as a link between you and the professional sports team. Rather, you must view the advisor as an extension of your own interests and not as a source to contact a professional team. If you use the advisor as a direct contact with a professional team, the advisor shall be considered an agent and you will have jeopardized your eligibility at an NCAA school. For example, an advisor may not be present during the discussions of a contract offer with a professional team or have any direct contact (including, but not limited to, in person, by telephone, e-mail or mail) with the professional sports team on your behalf. Finally, it is important to note that in order to maintain your eligibility at an NCAA school, if you receive assistance from an advisor, you will be required to pay that advisor at his or her normal rate for such services.

15. Can an institution cancel my athletics scholarship if I have an agreement with an agent?

YES! An institution is permitted to rescind your athletics scholarship if you have an agreement with an agent.

Helpful Tips:

- You should keep your head coach and compliance coordinator informed of all activities during this process.

- Be careful who you associate with during this process. Do it all yourself or work through your head coach. You may receive the assistance of your family members, provided they are not working with any individual who is marketing your athletics ability (e.g., contacting NHL teams).

- If you do not have knowledge of who arranged your tryout, you have a responsibility to find out who did.

- You should remain in school and complete your academic courses while you "test the waters."

- If you have questions regarding this information, please contact the NCAA agent, gambling, and amateurism activities staff at 317/917-6866 or rnewman@ncaa.org.

SIGNATURE:

Please sign your name and date below, which confirms that you have reviewed and understand this form and the information contained therein. I understand that if I am found to be in violation of the provisions of any of the information mentioned above, I may be declared ineligible for further intercollegiate competition.

Student-Athlete Signature	Date
Printed Name	Institution
Head Coach	Date
Compliance Officer	Date

RNB/SM:mrw

MEMORANDUM

January 9, 2009

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www.ncaa.org

TO: Men's Soccer Student-Athletes with Remaining Eligibility.

FROM: Rachel Newman Baker
Director of Agent, Gambling and Amateurism Activities

Steve Mallonee
Managing Director of Membership Services/Division I Governance Liaison.

SUBJECT: Information Regarding the 2009 Major League Soccer (MLS) Super Draft.

We understand that you may have remaining intercollegiate eligibility, but may also have a desire to obtain a greater understanding of what opportunities might exist for you to play professional soccer, or perhaps "test the waters" as it relates to your pursuit of a potential professional soccer career. Whether it is with an international or domestic club, you may attempt to gauge your readiness for competition at the next level through a variety of methods, including tryouts with professional teams and you will undoubtedly rely on a number of individuals to assist in the decision-making process.

At the end of this process, you may in fact reach the conclusion that it is not in the best interest to pursue a professional career at this time, but rather to continue athletics participation at the intercollegiate level while pursuing your academic degree.

Involvement in activities during this process can affect your intercollegiate eligibility. The following information is designed to help you protect your eligibility while you navigate this process.

Six Points to Remember:

You will lose your eligibility IF:

1. You agree orally or in writing to be represented by an agent or any individual acting on behalf of the agent [e.g., runner].
2. You accept any benefits from an agent, a prospective agent or any individual acting on behalf of the agent [e.g., runner].

3. If you participate in a tryout with a professional team that lasts longer than 48 hours, which you have not personally financed.
4. If you tryout with a professional team and miss classes.
5. If you sign a contract with a professional team, whether that team is based in the United States or internationally.
6. If you enter a professional draft AND are drafted by a professional team.

Key Dates:

MLS Combine: **January 9-13, 2009**
Date of MLS Super Draft: **January 15, 2009**

Frequently Asked Questions:

Generation Adidas

1. *What is the Generation Adidas program?*

   Generation Adidas is a joint venture between MLS and the United States Soccer Federation (USSF) aimed to raise the level of young soccer talent in the United States.

2. *When would I be notified by MLS that I am being considered for selection to Generation Adidas?*

   Officials from MLS generally will notify underclassmen that they are being considered for selection to Generation Adidas after the conclusion of the Division I Men's College Cup. MLS uses a network of scouts and player personnel administrators to identify the top soccer student-athletes across the country for consideration in the program.

3. *How will I be notified that I am being considered for selection to Generation Adidas?*

   An official from MLS will notify you that you are being considered for selection to the program, and will provide you with more detailed information regarding the process, and allow you to make an informed decision on whether you want to forego your remaining NCAA eligibility to participate in the program. A student-athlete must decide whether he wishes to accept the Generation Adidas contract offer or maintain his amateur status at an NCAA institution.

4. *What do student-athletes chosen for Generation Adidas receive?*

   Student-athletes chosen for the Generation Adidas program will generally be offered a guaranteed contract from MLS, which will not count against the salary cap of the MLS

team that drafts them. The contract will also include an offer for MLS to pay the remainder of your college educational expenses.

5. *Once I sign a contract with Generation Adidas what happens to my amateur status?*

   Entering into the Generation Adidas program automatically classifies a player as professional under NCAA rules, and the player is therefore ineligible to compete in NCAA soccer.

6. *How many student-athletes are generally chosen for Generation Adidas each year?*

   The number of student-athletes that opt to participate in Generation Adidas will vary from year to year. However, generally, no more than eight to 12 student-athletes have been chosen to participate in the program each year.

MLS Super Draft

7. *Can I be selected in the MLS Super Draft if I am an underclassman, but have not been selected to be part of the Generation Adidas program?*

   NO! MLS teams are only allowed to draft NCAA student-athletes who have exhausted their eligibility, unless that student-athlete has chosen to be a part of Generation Adidas.

8. *Am I allowed to enter the MLS Super Draft as an underclassman?*

   NO! MLS does not allow underclassman to "opt-in" for the MLS draft unless they have been selected to be a part of the Generation Adidas program.

Tryouts with Professional Teams

9. *Can I participate in private workouts/tryouts with professional soccer teams if school is still in session?*

   YES! You may tryout with a professional soccer team during the academic year if you are enrolled full-time as long as you don't miss class. You may also tryout with a professional soccer team during the summer provided that the tryout does not exceed 48 hours and you have not received more than actual and necessary expenses from the team.

10. *Can professional soccer teams pay for my private workouts/tryouts?*

    YES! You may receive actual and necessary expenses from the professional team in conjunction with one 48-hour tryout per team. The 48-hour tryout period begins when you

arrive at the tryout location. At the completion of the 48-hour period you must depart the location of the tryout immediately in order to receive transportation expenses.

11. *Can any other individual (e.g., agent, runner, or "advisor") pay for my private workouts/tryouts with professional soccer teams?*

    NO! You and your family are responsible for paying all expenses associated with any professional team tryouts as they are incurred.

Agents

12. *What is an "agent" according to NCAA rules?*

    An individual would be considered an "agent" if the individual markets your athletic skills to any professional soccer team or league (e.g., contact MLS or English Premier League teams to discuss your skills, set up tryouts with European clubs, etc.).

13. *Am I allowed to have any type of agreement with an agent?*

    NO! You are not permitted to have a written or oral agreement with an agent, or anyone who is employed by or acting on behalf of an agent or sports agency (i.e., "runner").

14. *What is an "oral agreement" with an agent?*

    An oral agreement occurs if you verbally agree to have an agent perform any services (e.g., providing any expenses related to tryouts, arranging disability insurance, etc.) on your behalf OR you have knowledge that an agent is performing such services.

15. *Is an agent allowed to contact teams on my behalf to arrange private workouts or tryouts?*

    NO! You cannot have an agent arrange a private workout/tryout with any professional soccer team.

16. *Can my family members or other individuals who are associated with me as a result of playing soccer (e.g., high school club soccer coach, etc.) have an agreement with an agent to perform services on my behalf?*

    NO! Family members and other individuals are not permitted to enter into any agreements with an agent on your behalf.

17. *Am I allowed to have an agreement with an agent if it is for future representation?*

NO! You are not permitted to agree to a future representation agreement with an agent.

18. *Is an agent allowed to provide me any benefits?*

NO! You, your family, or your friends are not permitted to receive any benefits from an agent. Examples of material benefits include money, transportation, dinner, clothes, cell phones, jewelry, etc. However, benefits may also include, but are not limited to, activities such as tryout arrangements with a professional team and coordinating tryout schedules.

19. *Am I permitted to have an advisor during this process?*

YES, you are allowed to hire someone to advise you regarding this process, provided the advisor does not market you to any professional teams. However, an advisor will be considered an agent if he or she contacts any team on your behalf to arrange private workouts or tryouts. If you use an advisor during this process, you must also compensate that advisor at a going rate for the services provided.

20. *Can an institution cancel my athletics scholarship if I have an agreement with an agent?*

YES! An institution is permitted to rescind your athletics scholarship if you have an agreement with an agent.

Helpful Tips:

- You should keep your head coach and compliance coordinator informed of all activities during this process.

- Be careful who you associate with during this process. Do it all yourself or work through your head coach. You may receive the assistance of your family members, provided they are not working with any individual who is marketing your athletics ability (e.g., contacting professional teams, setting up tryouts with professional teams).

- If you do not have knowledge of who arranged your tryout, you have a responsibility to find out who did.

- If at all possible, you should remain in school and complete your academic courses while you "test the waters."

- If you have any questions about MLS and Generation Adidas, please contact Jessica Minetti at 212/450-1253 or jessica.minetti@mlsnet.com.

- If you have questions regarding this information, please contact the NCAA agent, gambling, and amateurism activities staff at 317/917-6866 or rnewman@ncaa.org.

SIGNATURE:

Please sign your name and date below, which confirms that you have reviewed and understand this form and the information contained therein. I understand that if I am found to be in violation of the provisions of any of the information mentioned above, I may be declared ineligible for further intercollegiate competition.

Student-Athlete Signature	Date
Printed Name	Institution
Head Coach	Date
Compliance Officer	Date