A G E N D A

National Collegiate Athletic Association

Division I Amateurism Cabinet

NCAA National Office
Indianapolis, Indiana

September 24, 2009

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

2. Review of June 22 and 23, 2009, Division I Amateurism Cabinet meeting report. [Supplement No. 2]

3. Guiding principles. [See Supplement No. 2]

4. Review of legislative proposals. [Supplement No. 3]

    a. Definition of a professional team.

        i. Ice Hockey update. [Supplement No. 4]

        ii. Water Polo update. [Supplement No. 5]

    b. NHL Combine amendment. [See Supplement No. 4]

5. Collaboration Zone.

6. Litigation update.

7. Policies and Practices Task Force.

8. Bundled Rights Agreement.

9. Student-athlete likeness issue. [Supplement No. 6]

    a. Examples of New Media. [Supplement No. 7]

    b. Framework for proposed legislation.

10. Review of August 12, 2009, Division I Communications and Coordination Committee report. [Supplement No. 8]

11. Student-Athlete Advisory Committee report.

12. Eligibility Center report.

    a. General update.

    b. Penalty Cases update.

    c. Appeal Cases update.

    d. Fact-Finding Committee update.

    e. Pilot Program update.

    f. Policies and Procedures.

        i. Bylaw 12 jurisdictional amendment. [Supplement No. 9]

        ii. In-Person interviews. [Supplement No. 10]

        iii. Third-party legal representation. [Supplement No. 11]

    g. New registration Web site presentation.

    h. Legislative impact of new registration Web site. [Supplement No. 12]

    i. Practice blanket waiver. [Supplement No. 13]

13. Bylaws and practices review.

    a. Update from National Association for Athletics Compliance (NAAC).

14. News articles. [Supplement No. 14]

15. Summary of key items and takeaways.

16. Other business.

17. Future meeting dates.

    a. February 25 and 26, 2010, NCAA National Office, Indianapolis, Indiana.

    b. June 24 and 25, 2010, NCAA National Office, Indianapolis, Indiana.

18. Adjournment.

Schedule for September 24, 2009, Meeting of the Division I Amateurism Cabinet NCAA National Office Indianapolis, Indiana

Wednesday, September 23 **Meeting Room**

Cabinet members arrive in Indianapolis - dinner on your own.

Hotel: The Westin Indianapolis
50 South Capitol Avenue
Indianapolis, Indiana 46204

Thursday, September 24

Breakfast	8 to 8:30 a.m.	Atrium
Cabinet meeting	8:30 a.m. to 12 p.m.	Ced Dempsey
Lunch	12 to 1 p.m.	Atrium
Cabinet meeting	1 to 5:30 p.m.	Ced Dempsey
Dinner	5:30 to 6:30 p.m.	Atrium
Cabinet meeting	6:30 p.m. until done	Ced Dempsey

Friday, September 25

Cabinet members depart Indianapolis.

REPORT OF THE NCAA DIVISION I AMATEURISM CABINET JUNE 22-23, 2009, MEETING

ACTION ITEMS.

1. **Legislative Items.**

   - None.

2. **Nonlegislative Items.**

   - None.

KEY ITEMS.

1. **Proposals Sponsored for the 2009-10 Legislative Cycle.** The cabinet sponsored three legislative proposals for the 2009-10 legislative cycle, including a proposal to change the definition of a professional athletics team and the criteria for determining a season of competition. [See Informational Items 1-a, -b and -c below.]

2. **Commercial Activity in Division I Intercollegiate Athletics.** The cabinet engaged in a detailed review of the final report of the Task Force on Commercial Activity in Intercollegiate Athletics. The cabinet stressed the need for the legislative changes to strike the appropriate balance between the necessity of commercial involvement in intercollegiate athletics and the principles of amateurism. The cabinet will continue its discussion of the legislative concepts in the report at its September meeting, at which time it may make specific legislative recommendations to the Leadership Council.

INFORMATIONAL ITEMS.

1. **Legislative Informational Items.**

   a. **NCAA Bylaw 12.02.4 (Professional Athletics Team).**

      (1) Recommendation. The cabinet agreed to sponsor legislation for the 2009-10 legislative cycle to permit an individual prior to initial, full-time collegiate enrollment to engage in outside competition with a professional athletics team without jeopardizing intercollegiate eligibility, provided the individual does not receive more than actual and necessary expenses to compete on the team.

The cabinet noted that as part of the recommendation, the competitive equity issues related to participation in organized competition would be addressed as follows:

(a) In sports other than tennis, swimming and diving and women's volleyball, a prospective student-athlete who does not initially enroll full-time in a collegiate institution within one year (or the next opportunity to enroll after one year has elapsed) following the high school graduation date of the prospective 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.

(b) In tennis, a prospective student-athlete who does not initially enroll full-time in a collegiate institution within six months (or the next opportunity to enroll after the six-month period has expired) following the high school graduation date of the prospective student-athlete's class and participates in organized events after the six-month period shall be charged with a season of intercollegiate competition for each year of participation <u>and</u> shall fulfill an academic year in residence for each year of participation on matriculation at the certifying institution before being eligible to represent the institution in intercollegiate competition.

(2) <u>Effective Date</u>. August 1, 2010.

(3) <u>Rationale</u>. The cabinet agreed that prior to initial collegiate enrollment it is more equitable to determine a prospective student-athlete's eligibility based on the specific circumstances of the prospective student-athlete (as opposed to the prospective student-athlete and any of his or her teammates). Under this approach, a prospective student-athlete would also be permitted to sign a contract with a professional sports team, provided the terms of the contract do not allow for the receipt of more than actual and necessary expenses. 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 review 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.

(4) Estimated Budget Impact. Potential cost savings as a result of no longer dedicating resources to determine whether any of a prospective student-athlete's teammates received more than actual and necessary expenses.

(5) Student-Athlete Impact. None.

b. Amateurism – Involvement with Professional Teams – Tryout After Enrollment - Men's Ice Hockey.

(1) Recommendation. The cabinet agreed to sponsor legislation for the 2009-10 legislative cycle to specify that in men's ice hockey, a prospective or enrolled student-athlete may accept actual and necessary travel, and room and board expenses from a professional sports organization that is a member of the National Hockey League (NHL) in order to attend the NHL Scouting Combine, regardless of the duration of the combine.

(2) Effective Date. Immediate.

(3) Rationale. This proposal provides the same benefit to men's ice hockey prospective and enrolled student-athletes that currently is provided in the sport of basketball. Currently, men's ice hockey prospective and enrolled student-athletes must limit their tryout activities to a 48-hour period to avoid jeopardizing their eligibility if they receive any expenses for the tryout from a professional sports organization. As a result, individuals taking part in the combine (which does not include any on-ice activities) have attempted to conduct as many interviews as possible during the 48-hour time period, during which medical screenings and a physical fitness evaluation also take place. This compression of activities can be detrimental to the performance of the participants during an activity that can have significant consequences on their future career.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. Expanded opportunities for men's ice hockey student-athletes to tryout with professional teams.

c. Amateurism – Amateur Status – Exception for Insurance against Disabling Injury Insurance and Awards, Benefits and Expenses for Enrolled Student-Athletes – Benefits, Gifts and Services – Disabling-Injury Insurance.

(1) Recommendation. The cabinet agreed to sponsor legislation for the 2009-10 legislative cycle to specify that an institution's president or chancellor

may designate an institutional staff member(s) to assist student-athletes in making arrangements for securing disabling-injury insurance.

(2) Effective Date. Immediate.

(3) Rationale. Currently, there appears to be a growing trend within the agent and financial advisor community to arrange disability insurance policies and loans for student-athletes for purposes of recruiting. The cabinet believes that allowing institutional staff members to assist student-athletes with these arrangements would eliminate improper third-party involvement and also alleviate the pressures on student-athletes to seek out this assistance from third parties. It would continue to be impermissible for a representative of athletics interest to provide such assistance.

(4) Estimated Budget Impact. Minimal.

(5) Student-Athlete Impact. Potential significant impact on alleviating pressures on student-athletes to seek out assistance from third parties (e.g., agents) in order to secure loans to purchase disabling-injury insurance.

2. Nonlegislative Informational Items.

a. Commercial Activity in Division I Intercollegiate Athletics. The cabinet engaged in a detailed review of the final report of the Task Force on Commercial Activity in Intercollegiate Athletics. The Leadership Council requested the cabinet review the Statement of Principles in order to make recommendations regarding the necessary implementation details relative to the principles pertaining to the amateurism rules. The cabinet stressed the need for the legislative changes to strike the appropriate balance between the necessity of commercial involvement in intercollegiate athletics and the principles of amateurism. The cabinet identified several issues for further discussion at its September meeting and requested that staff provide examples of various new media concepts involving the use of student-athletes' images or names in order to facilitate the discussion.

b. Bylaw and Practices Review. At the request of the Board of Directors, the cabinet engaged in a review of Bylaw 12. The cabinet agreed to continue its examination of the legislation at its September meeting to identify bylaws that could be modified in order to provide possible financial relief to institutions. The cabinet also requested staff solicit the assistance of the National Association of Athletics Compliance (NAAC) for suggestions as to possible legislative change(s).

c. **Guiding Principles.** The cabinet engaged in a discussion regarding its guiding principles and priorities to be used when considering legislative proposals or other amateurism issues. [Attachment A.]

d. **Eligibility Center Report.** The Eligibility Center staff provided an overview of data related to the amateurism certification process (e.g., most penalized sports, bylaws most frequently violated and sports most frequently involved). The cabinet also received an update on the Expense Valuation Pilot Program and reaffirmed that the US Census Bureau Web site is the most appropriate source for expense valuation determinations. The Eligibility Center announced that a new registration Web site will be launched June 29, 2009, at www.eligibiltycenter.org. The cabinet also approved the updated NCAA Divisions I and II Amateurism Certification Process Policies and Procedures. The cabinet also engaged in a discussion regarding the challenges faced by the Eligibility Center staff with prospects who are not truthful during the certification process and requested that this be a future cabinet discussion item.

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, Academic and Membership Affairs

Attachment A

GUIDING PRINCIPLES
FOR THE AMATEURISM CABINET

1. 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.

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

3. Minimize missed class time; maximize time spent pursuing educational opportunities

4. All commercial activities shall support intercollegiate athletics and be consistent with the values of higher education.

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

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

7. Consider the impact of proposals on institutional, conference, NCAA and Eligibility Center resources and staff members.

8. Ensure feedback has been solicited from stakeholders.

9. Consider if sport-specific legislation is warranted or if proposed legislation can/should be expanded to other sports.

10. Examine potential unintended consequences when reviewing legislation.

The National Collegiate Athletic Association
June 26, 2009 RNB:esb

Amateurism Cabinet - Proposals for Review

Proposal Number	Title	Status	Source	Effective Date	Intent
2009-22	AMATEURISM AND ELIGIBILITY -- INVOLVEMENT WITH PROFESSIONAL TEAMS -- EXCEPTION -- PRIOR TO INITIAL FULL-TIME COLLEGIATE ENROLLMENT -- DELAYED ENROLLMENT -- SEASONS OF COMPETITION	Legislative Council Initial Consideration	NCAA Division I Amateurism Cabinet	August 1, 2010; applicable to student-athletes who initially enroll full time in a collegiate institution on or after August 1, 2010	To specify that prior to initial full-time collegiate enrollment, an individual may enter into an agreement to compete on a professional team and compete on a professional team, provided the agreement does not allow for receipt of more than actual and necessary expenses to participate on the team; further, in sports other than tennis, swimming and diving and women's volleyball, to specify that a student-athlete who does not initially enroll full-time in a collegiate institution within one year (six months for tennis) or the next opportunity to enroll following the high school graduation date of the prospective student-athlete's class and participates in organized events after the specified time period shall be charged with a season of intercollegiate competition for each year of participation and shall fulfill an academic year in residence (one year for each year of competition in tennis) on matriculation at the certifying institution before being eligible to represent the institution in intercollegiate competition.
2009-23	AMATEURISM AND AWARDS, BENEFITS AND EXPENSES -- EXCEPTIONS TO AMATEURISM	Legislative Council Initial	NCAA Division I Amateurism	Immediate	To specify that an institution's president or chancellor may designate an institutional staff member (or staff members) to assist a student-

Proposal Number	Title	Status	Source	Effective Date	Intent
	RULE -- BENEFITS, GIFTS AND SERVICES -- INSURANCE AGAINST DISABLING-INJURY OR ILLNESS	Consideration	Cabinet		athlete with arrangements for securing a loan against future earnings potential for the purpose of purchasing insurance against a disabling injury or illness and to assist with arrangements for securing such insurance.
2009-24	AMATEURISM -- INVOLVEMENT WITH PROFESSIONAL TEAMS -- TRYOUTS -- MEN'S ICE HOCKEY	Legislative Council Initial Consideration	NCAA Division I Amateurism Cabinet	Immediate	In men's ice hockey, to specify that a prospective or enrolled student-athlete may accept actual and necessary expenses from the National Hockey League (NHL) or a professional sports organization that is a member of the NHL to attend the NHL scouting combine, regardless of the duration of the combine.
2009-25	AMATEURISM -- PROMOTIONAL ACTIVITIES -- INSTITUTIONAL, CHARITABLE, EDUCATION OR NONPROFIT PROMOTIONS -- RELEASE STATEMENT -- DE MINIMIS VIOLATION	Legislative Council Initial Consideration	NCAA Division I Legislative Council (Administrative Committee) (Committee on Student-Athlete Reinstatement)	Immediate	To specify that a violation of the promotional activities legislation in which the only condition of the legislation not satisfied is the requirement that the student-athlete and an authorized representative of the charitable, educational or nonprofit agency sign a release statement shall not affect the student-athlete's eligibility, provided the release statement would have been signed if such a request had been made.

Proposal Number: 2009-22

Title: AMATEURISM AND ELIGIBILITY -- INVOLVEMENT WITH PROFESSIONAL TEAMS -- EXCEPTION -- PRIOR TO INITIAL FULL-TIME COLLEGIATE ENROLLMENT -- DELAYED ENROLLMENT -- SEASONS OF COMPETITION

Intent: To specify that prior to initial full-time collegiate enrollment, an individual may enter into an agreement to compete on a professional team and compete on a professional team, provided the agreement does not allow for receipt of more than actual and necessary expenses to participate on the team; further, in sports other than tennis, swimming and diving and women's volleyball, to specify that a student-athlete who does not initially enroll full-time in a collegiate institution within one year (six months for tennis) or the next opportunity to enroll following the high school graduation date of the prospective student-athlete's class and participates in organized events after the specified time period shall be charged with a season of intercollegiate competition for each year of participation and shall fulfill an academic year in residence (one year for each year of competition in tennis) on matriculation at the certifying institution before being eligible to represent the institution in intercollegiate competition.

A. Bylaws: Amend 12.1.2, as follows:

12.1.2 Amateur Status. An individual loses amateur status and thus shall not be eligible for intercollegiate competition in a particular sport if the individual:

[12.1.2-(a) through 12.1.2-(b) unchanged.]

(c) Signs a contract or commitment of any kind to play professional athletics, regardless of its legal enforceability or any consideration received**, except as permitted in Bylaw 12.2.5.1**;

[12.1.2-(d) unchanged.]

(e) Competes on any professional athletics team per Bylaw 12.02.4, even if no pay or remuneration for expenses was received**, except as permitted in Bylaw 12.2.3.2.1**;

[Remainder of 12.1.2 unchanged.]

B. Bylaws: Amend 12.2.3.2, as follows:

12.2.3.2 Competition with Professionals. An individual shall not be eligible for intercollegiate athletics in a sport if the individual ever competed on a professional team (per Bylaw 12.02.4) in that sport. However, an individual may compete on a tennis, golf, two-person sand volleyball or two-person synchronized diving team with persons who are competing for cash or a comparable prize, provided the individual does not receive payment of any kind for such participation.

12.2.3.2.1 Exception -- Competition Prior to Initial Full-Time Collegiate Enrollment. Prior to initial full-time collegiate enrollment, an individual may compete on a

professional team (per Bylaw 12.02.4), provided he or she does not receive more than actual and necessary expenses to participate on the team.

[12.2.3.2.1 through 12.2.3.2.2 renumbered as 12.2.3.2.2 through 12.2.3.2.3, unchanged.]

12.2.3.2.~~3~~**4** Major Junior A Ice Hockey. Ice hockey teams in the United States and Canada, classified by the Canadian Amateur Hockey Association as major junior A teams, are considered professional teams under NCAA legislation.

~~*12.2.3.2.3.1 Limitation on Restoration of Eligibility. An appeal for restoration of eligibility may be submitted on behalf of an individual who has participated on a major junior A ice hockey team under the provisions of Bylaw 14.12; however, such individual shall be denied at least the first year of intercollegiate athletics competition in ice hockey at the certifying institution and shall be charged with the loss of at least one season of eligibility in ice hockey.*~~

[12.2.3.2.4 renumbered as 12.2.3.2.5, unchanged.]

C. Bylaws: Amend 12.2.5, as follows:

12.2.5 Contracts and Compensation. An individual shall be ineligible for participation in an intercollegiate sport if he or she has entered into any kind of agreement to compete in professional athletics, either orally or in writing, regardless of the legal enforceability of that agreement.

12.2.5.1 Exception -- Prior to Initial Full-Time Collegiate Enrollment. Prior to initial full-time collegiate enrollment, an individual may enter into an agreement to compete on a professional team (per Bylaw 12.02.4), provided the agreement does not allow for receipt of more than actual and necessary expenses to participate on the team.

[12.2.5.1 renumbered as 12.2.5.2, unchanged.]

D. Bylaws: Amend 14.02, as follows:

14.02 DEFINITIONS AND APPLICATIONS

[14.02.1 through 14.02.8 unchanged.]

14.02.9 Organized Competition. Athletics competition shall be considered organized if any one of the following conditions exists:

(a) Competition is scheduled and publicized in advance;

(b) Official score is kept;

(c) Individual or team standings are maintained;

(d) Official timer or game officials are used;

(e) Admission is charged;

(f) Teams are regularly formed or team rosters are predetermined;

(g) Team uniforms are used;

(h) A team in privately or commercially sponsored; or

(i) The competition is either directly or indirectly sponsored, promoted or administered by an individual, an organization or any other agency.

[14.02.9 through 14.02.13 renumbered as 14.02.10 through 14.02.14, unchanged.]

E. Bylaws: Amend 14.2.3, as follows:

14.2.3 Criteria for Determining Season of Competition.

[14.2.3.1 unchanged.]

14.2.3.2 Delayed Enrollment **-- Seasons of Competition**.

14.2.3.2.1 Sports other than Tennis~~, *Swimming and Diving and Women's Volleyball*. *A*~~ **In Sports other than tennis, a** student-athlete who does not enroll in a collegiate institution as a full-time student in a regular academic term during a one-year time period after this or her high school graduation date or the graduation date of his or her 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 and based on the prescribed educational path in the student-athlete's country), whichever occurs earlier, shall be subject to the following:

(a) The student-athlete shall be charged with a season of intercollegiate eligibility for each calendar year after the one-year time period (the next opportunity to enroll after one calendar year has elapsed) and prior to full-time collegiate enrollment during which the student-athlete has participated in organized ~~*events*~~ **competition** per Bylaw ~~*14.2.3.5.3*~~ **14.02.9**.

(b) After the one-year time period, if the student-athlete has engaged in ~~*events*~~ **competition** per Bylaw ~~*14.2.3.5.3*~~ **14.02.9**, on matriculation at the certifying institution, the student-athlete must fulfill an academic year in residence before being eligible to represent the institution in intercollegiate competition.

14.2.3.2.2 Tennis. In tennis, a student-athlete who does not enroll in a collegiate institution as a full-time student in a regular academic term within six months (or the first opportunity to enroll after six months have elapsed) after his or her high school graduation date or the graduation date of his or her 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 and based on the prescribed educational path in the student-athlete's country), whichever occurs earlier, shall be subject to the following:

(a) The student-athlete shall be charged with a season of intercollegiate eligibility for each calendar year after the six-month period has elapsed (or the next opportunity to enroll) and prior to full-time collegiate enrollment during which the student-athlete has participated in organized competition per Bylaw 14.02.9.

(b) After the six-month period, if the student-athlete has engaged in organized competition per Bylaw 14.02, on matriculation at the certifying institution, the student-athlete must fulfill an academic year in residence for each calendar year after the six-month period has elapsed (or the next opportunity to enroll) and prior to full-time collegiate enrollment during which the student-athlete has participated in organized competition per Bylaw 14.02.9 before being eligible to represent the institution in intercollegiate competition.

14.2.3.2.**2**.1 Matriculation After 20th Birthday -- Tennis. In tennis, a student who is eligible under Bylaw 14.2.3.2.**2**, but who participates in organized tennis events after his or her 20th birthday and before full-time enrollment at the certifying institution shall be subject to the following:

(a) The student will be charged with one season of intercollegiate tennis competition for each calendar year after his or her 20th birthday and prior to full-time enrollment at the certifying institution during which the student-athlete has participated in organized tennis ~~*events*~~ **competition** per Bylaw ~~*14.2.3.5.3*~~ **14.02.9**. [Note: This includes participation in intercollegiate tennis while enrolled full time in another two-year or four-year institution; however, this provision replaces the season of competition counted in Bylaw 14.2 (only one season is used in any one year).]

(b) Upon matriculation at the certifying institution, the student-athlete must fulfill an academic year in residence before being eligible to represent the institution in intercollegiate tennis, unless the student transfers to the certifying institution with a minimum of 24 semester hours (or equivalent) of transferable degree credit. (Note: All other NCAA transfer and academic eligibility requirements apply.)

14.2.3.2.~~*2*~~**3** Exception -- Olympic Games, Pan American Games, World Championships, World Cup and World University Games Participation. Participation in the Olympic Games, Pan American Games, World Championships, World Cup and World University Games is exempt from application of ~~*Bylaws*~~ **Bylaw** 14.2.3.2 ~~*and 14.2.3.2.1*~~.

[14.2.3.3 through 14.2.3.4 unchanged.]

~~*14.2.3.5 Participation After 21st Birthday. In sports other than tennis, swimming and diving and women's volleyball, any participation as an individual or a team representative in organized sports competition by a student during each 12 month period after the student's 21st birthday and prior to initial full-time enrollment in a collegiate institution shall count as one year of varsity competition in that sport. Participation in organized competition during time spent in the U.S. armed services shall be expected. (Note: In swimming and diving, and women's volleyball, Bylaw 14.2.3.5 applies to a student-athlete*~~

~~*who is not subject to Bylaw 14.2.3.2. If a student-athlete triggers both Bylaws 14.2.3.2 and 14.2.3.5, only Bylaw 14.2.3.2 applies.*~~

~~*14.2.3.5.1 Track and Field and Cross Country. A prospective student-athlete who participates in outside competition after the student's 21st birthday and prior to initial full-time enrollment in a collegiate institution during a cross-country, indoor track and field or outdoor track and field sports season (as opposed to general road racing events) would be charged with at least one season of competition in the sport in which the student participated.*~~

~~*14.2.3.5.2 Road Racing. A prospective student-athlete who participates in road racing activities after the student's 21st birthday and prior to initial full-time enrollment in a collegiate institution shall be charged with at least one season of competition in each of the sports of cross country, indoor track and field and outdoor track and field.*~~

~~*14.2.3.5.3 Organized Competition. Athletics competition shall be considered organized if any one of the following conditions exists:*~~

~~*(a) Competition is scheduled and publicized in advance;*~~

~~*(b) Official score is kept;*~~

~~*(c) Individual or tam standings are maintained;*~~

~~*(d) Official timer or game officials are used;*~~

~~*(e) Admission is charged;*~~

~~*(f) Teams are regularly formed or team rosters are predetermined;*~~

~~*(g) Team uniforms are used;*~~

~~*(h) A team is privately or commercially sponsored; or*~~

~~*(i) The competition is either directly or indirectly sponsored, promoted or administered by an individual, an organization or any other agency.*~~

[14.2.3.6 renumbered as 14.2.3.5, unchanged.]

Source: NCAA Division I Amateurism Cabinet

Effective Date: August 1, 2010; applicable to student-athletes who initially enroll full time in a collegiate institution on or after August 1, 2010

Category: Amendment

Topical Area: Amateurism

Rationale: Prior to initial collegiate enrollment, it is more equitable to determine eligibility based on the circumstances as they relate to the individual prospective student-athlete, as opposed to his or her teammates. This revision would alleviate the situation in which a prospective student-athlete's eligibility is jeopardized due to a teammate receiving

remuneration above actual and necessary expenses, even though the prospective student-athlete may be unaware of this arrangement and does not receive more than actual and necessary expenses for participation on the team. Under this approach, an institution would no longer be required to determine whether a team is considered professional. Instead, the focus would be on the individual's specific circumstances and eligibility would be assessed using the threshold of receipt of more than actual and necessary expenses. The competitive equity issues related to participation in organized competition would be addressed by applying the delayed enrollment seasons of competition legislation, which currently apply only to tennis, swimming and diving, and women's volleyball, to all sports. Decreasing the length of time during which prospective student-athletes may compete in organized tennis will place emphasis on the importance of academics and level the playing field by ensuring relatively similar competitive opportunities prior to college.

Budget Impact: Potential cost savings in amateurism certification process.

Impact on S-A's Time: None.

History

Jun 23, 2009: Amateurism Cabinet, Sponsored

Aug 07, 2009: Submit; Submitted for consideration.

Proposal Number: 2009-23

Title: AMATEURISM AND AWARDS, BENEFITS AND EXPENSES -- EXCEPTIONS TO AMATEURISM RULE -- BENEFITS, GIFTS AND SERVICES -- INSURANCE AGAINST DISABLING-INJURY OR ILLNESS

Intent: To specify that an institution's president or chancellor may designate an institutional staff member (or staff members) to assist a student-athlete with arrangements for securing a loan against future earnings potential for the purpose of purchasing insurance against a disabling injury or illness and to assist with arrangements for securing such insurance.

A. Bylaws: Amend 12.1.2.4.3, as follows:

12.1.2.4.3 Exception for Insurance against Disabling Injury or Illness. An individual may borrow against his or her future earnings potential from an established, accredited commercial lending institution exclusively for the purpose of purchasing insurance (with no cash surrender value) against a disabling injury or illness that would prevent the individual from pursuing a chosen career, provided a third party (including a ~~*member institution's athletics department staff members, its professional sports counseling panel or representatives of its*~~ **representative of an institution's** athletics interests) is not involved in arrangements for securing the loan. **However, an institution's president or chancellor (or his or her designated representative from outside the department of athletics) may designate an institutional staff member (or staff members) (e.g., professional sports counseling panel) to assist a student-athlete with arrangements for securing the loan and insurance.** ~~*The student-athlete shall report all such transactions and shall file copies of any loan documents associated with disability insurance with the institution, regardless of the source of the collateral for the loan. The student-athlete also shall file copies of the insurance policy with the institution, regardless of whether a loan is secured to purchase the insurance policy.*~~ **The institution shall retain copies of all documents related to loan transactions and insurance policies, regardless of whether the institution is involved in the arrangements.**

B. Bylaws: Amend 12.3.4, as follows:

12.3.4 Professional Sports Counseling Panel. It is permissible for an authorized institutional professional sports counseling panel to:

[12.3.4-(a) unchanged.]

(b) *Provide direction on* **Assist a student-athlete with arrangements for** securing a loan for the purpose of purchasing insurance against a disabling injury **or illness and with arrangements for purchasing such insurance**;

[12.3.4-(c) through 12.3.4-(g) unchanged.]

C. Bylaws: Amend 16.11.1.4, as follows:

16.11.1.4 Disabling-Injury Insurance. A student-athlete may borrow against his or her future earnings potential from an established, accredited commercial lending institution, exclusively for the purpose of purchasing insurance (with no cash surrender value) against a disabling injury that would prevent the individual from pursuing his or her chosen career, provided a third party (including a ~~*member institution's athletics department staff members or representatives of its*~~ **representative of an institution's** athletics interests) is not involved in arrangements for securing the loan. **However, an institution's president or chancellor (or his or her designated representative from outside the athletics department) may designate an institutional staff member (or staff members) (e.g., professional sports counseling panel) to assist a student-athlete with arrangements for securing the loan and insurance.** ~~The student-athlete shall report any such transactions to the member institution and shall file copies of any loan documents associated with disability insurance and insurance policy with the member institution, regardless of the source of the collateral for the loan. The student-athlete also shall file copies of the insurance policy with the member institution, regardless of whether a loan is secured to purchase the insurance policy~~. **The institution shall retain copies of all documents related to loan transactions and insurance policies, regardless of whether the institution is involved in the arrangements.**

Source: NCAA Division I Amateurism Cabinet

Effective Date: Immediate

Category: Amendment

Topical Area: Amateurism

Rationale: There is a growing trend within the community of agents and financial advisors to arrange disabling-injury insurance policies and loans for student-athletes for recruiting purposes. Allowing institutional staff members, including the institution's professional sports counseling panel, to assist student-athletes with these arrangements would eliminate improper third-party involvement and would alleviate the pressures on student-athletes to seek out this assistance from such third parties. It would continue to be impermissible for a representative of athletics interests to provide such assistance.

Budget Impact: Minimal.

Impact on S-A's Time: None.

History

Jun 23, 2009: Amateurism Cabinet, Sponsored

Jun 23, 2009: Amateurism Cabinet, Sponsored

Proposal Number: 2009-24

Title: AMATEURISM -- INVOLVEMENT WITH PROFESSIONAL TEAMS -- TRYOUTS -- MEN'S ICE HOCKEY

Intent: In men's ice hockey, to specify that a prospective or enrolled student-athlete may accept actual and necessary expenses from the National Hockey League (NHL) or a professional sports organization that is a member of the NHL to attend the NHL scouting combine, regardless of the duration of the combine.

Bylaws: Amend 12.2.1, as follows:

12.2.1 Tryouts.

12.2.1.1 Tryout Before Enrollment. A student-athlete remains eligible in a sport even though, prior to enrollment in a collegiate institution, the student-athlete may have tried out with a professional athletics team in a sport or received not more than one expense-paid visit from each professional team (or combine including that team), provided such a visit did not exceed 48 hours and any payment or compensation in connection with the visit was not in excess of actual and necessary expenses. The 48-hour tryout period begins at the time the individual arrives at the tryout location. At the completion of the 48-hour period, the individual must depart the location of the tryout immediately in order to receive return transportation expenses. 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.

[12.2.1.1.1 unchanged.]

12.2.1.1.2 Exception for National Hockey League Scouting Combine - Men's Ice Hockey. In men's ice hockey, prior to full-time enrollment in a collegiate institution, a prospective student-athlete may accept actual and necessary expenses from the National Hockey League (NHL) or a professional sports organization that is a member of the NHL to attend the NHL scouting combine, regardless of the duration of the combine.

12.2.1.2 Tryout After Enrollment. After initial full-time collegiate enrollment, an individual who has eligibility remaining may try out with a professional athletics team (or participate in a combine including that team) at any time, provided the individual does not miss class. The individual may receive actual and necessary expenses in conjunction with one 48-hour tryout per professional team (or a combine including that team). The 48-hour tryout period shall begin at the time the individual arrives at the tryout location. At the completion of the 48-hour period, the individual must depart the location of the tryout immediately in order to receive return transportation expenses. 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 the individual does not miss class.

[12.2.1.2.1 unchanged.]

12.2.1.2.2 Exception for National Hockey League Scouting Combine -- Men's Ice Hockey. In men's ice hockey, a student-athlete may accept actual and necessary travel, and room and board expenses from the National Hockey League (NHL) or a professional sports organization that is a member of the NHL to attend the NHL scouting combine, regardless of the duration of the combine.

[Remainder of 12.2.1 unchanged.]

Source: NCAA Division I Amateurism Cabinet

Effective Date: Immediate

Category: Amendment

Topical Area: Amateurism

Rationale: This proposal provides the same benefit to men's ice hockey prospective and enrolled student-athletes that currently is provided in basketball. Currently, men's ice hockey prospective and enrolled student-athletes must limit their tryout activities to a 48-hour period to avoid jeopardizing their eligibility if they receive any expenses for the tryout from a professional sports organization. As a result, individuals taking part in the combine (which does not include any on-ice activities) have attempted to conduct as many interviews as possible during the 48-hour time period, during which medical screenings and a physical fitness evaluation also take place. This compression of activities can be detrimental to the performance of the participants during an activity that can have significant consequences on their future career.

Budget Impact: None.

Impact on S-A's Time: Expanded opportunity to participate In the NHL scouting combine.

History

Jun 23, 2009: Amateurism Cabinet, Sponsored

Jun 23, 2009: Cabinet / Committee, Sponsored (referred proposal to Amateurism Cabinet)

Proposal Number: 2009-25

Title: AMATEURISM -- PROMOTIONAL ACTIVITIES -- INSTITUTIONAL, CHARITABLE, EDUCATION OR NONPROFIT PROMOTIONS -- RELEASE STATEMENT -- DE MINIMIS VIOLATION

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

Bylaws: Amend 12.5.1.1, as follows:

12.5.1.1 Institutional, Charitable, Education or Nonprofit Promotions. A member institution or recognized entity thereof (e.g., fraternity, sorority or student government organization), a member conference or a noninstitutional charitable, educational or nonprofit agency may use a student-athlete's name, picture or appearance to support its charitable or educational activities or to support activities considered incidental to the student-athlete's participation in intercollegiate athletics, provided the following conditions are met:

[12.5.1.1-(a) through 12.5.1.1-(i) unchanged.]

[12.5.1.1.1 through 12.5.1.1.5 unchanged.]

12.5.1.1.6 Effect of Violations. ~~*If an institution, without the student-athlete's knowledge or consent, uses or permits the use of the student-athlete's name or picture in a manner contrary to Bylaw 12.5.1.1, the violation*~~ **The following violations of Bylaw 12.5.1.1** shall be considered ~~*an*~~ institutional violation**s**; however, the ~~*student-athlete's*~~ **student-athletes'** eligibility shall not be affected~~.~~**:**

(a) An institution, without the student-athlete's knowledge or consent, uses or permits the use of the student-athlete's name or picture in a manner contrary to Bylaw 12.5.1.1;

~~*In addition, a*~~ **(b) A** violation ~~*of Bylaw 12.5.1.1 related to any permissible promotional activity*~~ in which the only condition of the legislation not satisfied is the requirement to obtain written approval from the director of athletics (or his or her designee who may not be a coaching staff member) ~~*shall be considered an institutional violation; however, the student-athlete's eligibility shall not be affected*~~, provided the approval would have been granted if requested**; and**

(c) A violation in which the only condition of the legislation not satisfied is the requirement that the student-athlete and an authorized representative of the charitable, educational or nonprofit agency sign a release statement, provided the release statement would have been signed if such a request had been made.

[Remainder of 12.5.1.1 unchanged.]

Source: NCAA Division I Legislative Council (Administrative Committee) (Committee on Student-Athlete Reinstatement)

Effective Date: Immediate

Category: Amendment

Topical Area: Amateurism

Rationale: This change removes any effect on student-athlete eligibility in cases in which the student-athlete or the authorized representative of the charitable, educational or nonprofit agency fails to sign a release statement ensuring that the student-athlete's name, image or appearance is used in a manner consistent with the requirements of the promotional activities legislation. This change expands the current de minimis provisions related to NCAA Bylaw 12.5.1.1 for situations in which a promotional activity would have been permissible had the paperwork been processed. Such violations will continue to be considered institutional violations for which the institution is required to submit a self-report.

Budget Impact: None.

Impact on S-A's Time: None.

History

Jun 11, 2009: Student-Athlete Reinstatement Committee, Recommends Approval

Jun 17, 2009: Legislative Council Administrative Committee, Sponsored

Dave Ogrean
Executive Director

1775 Bob Johnson Drive | Colorado Springs, CO 80906-4090
phone 719.538.1163 | fax 719.538.1168 | email daveo@usahockey.org

August 28, 2009

Mr. Mike Rogers
Chair, NCAA Division I Amateurism Cabinet
Baylor Law School
Baylor University
Waco, TX 76798

Dear Mike:

USA Hockey is deeply concerned about proposed legislation that its feels strongly would be very damaging to the sport of ice hockey in the United States and not in the overall best interest of American student-athletes. I am referring to Proposal 2009-22.

As the National Governing Body for the sport in America, one of USA Hockey's primary responsibilities is the development of U.S.-citizen athletes, and opportunities for those athletes. Our increasing success in international and Olympic competition has occurred because of the tremendous partnership we have with U.S. junior hockey and NCAA hockey, which with our own National Team Development Program comprise the links in the chain of American player development. NCAA hockey is the pinnacle of amateur hockey in the U.S. We have a vested interest in its health and strength, which we believe would be put at risk if the sport is not removed from Proposal 2009-22.

We believe that this proposal, if passed or if it includes the sport of ice hockey, would result in significant damage. This proposal works to the advantage of Canadian Major Junior teams, not NCAA college programs. The ability of U.S. athletes to play Canadian Major Junior hockey for one year and remain eligible to play NCAA hockey would have an obvious consequence – many players would try it, only the best would be enticed to stay, and those that "wash out" would have few options, if any.

It is true that some players could return to college hockey and not be negatively impacted; however, we are convinced some athletes would be ineligible to return and thus find themselves prohibited from continuing to compete in the sport on an amateur level. From our perspective, the negative consequences far outweigh any perceived benefits. The chain of American player development would be broken, causing damage to the options for potential student-athletes, as well as adversely impacting future U.S. performance in international competition, including the Olympic Winter Games.

It is disconcerting that parents too often seem to minimize the value of education when the whisper of a family advisor or the offer of a check entices them to choose a path that excludes a college playing (and scholarship) opportunity. The system that has been

Dave Ogrean
Executive Director

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in place for many years works. It is not broken. If it is altered as Proposal 2009-22 suggests, it would be irreparably damaged.

On behalf of USA Hockey, and speaking from 30 years of involvement with amateur sports in America, I urge you in the strongest possible terms to please remove ice hockey from Proposal 2009-22.

Sincerely,

Dave Ogrean
Executive Director

cc: Ron DeGregorio, President, USA Hockey
Tom Anastos, Commissioner, CCHA
Joe Bertagna, Commissioner, Hockey East
Bob DeGregorio, Commissioner, Atlantic Hockey
Steve Hagwell, Commissioner, ECAC Hockey
Ed McLaughlin, Commissioner, College Hockey America
Bruce McLeod, Commissioner, WCHA
Skip Prince, Commissioner, USHL

August 31, 2009

Professor Michael Rogers
Chair, NCAA Division I Amateurism Cabinet
Baylor Law School
Baylor University
Waco, TX 76798

Dear Mike:

On behalf of the American Hockey Coaches Association (AHCA) and the Hockey Commissioners' Association (HCA), which comprises the six NCAA Division I men's ice hockey conferences, please accept this letter as our official position on NCAA Legislative Proposal Nos. 2009-22 (Involvement with Professional Teams; Delayed Enrollment) and 2009-24 (Tryouts with Professional Teams) recently sponsored by the NCAA Division I Amateurism Cabinet.

Based upon feedback from head coaches at the 58 NCAA member institutions that sponsor Division I men's ice hockey, and recent discussions during meetings involving the hockey commissioners, select directors of athletics and head coaches, and NCAA staff, we request that the Cabinet amend the two proposals as follows:

1. Exclude men's ice hockey from Proposal No. 2009-22;
2. Modify Proposal No. 2009-24 to include National Hockey League (NHL) rookie camps as events for which prospective and enrolled student-athletes can receive reimbursement of actual and necessary expenses.

Our request to remove men's ice hockey from Proposal No. 2009-22 has the overwhelming support of the collegiate hockey community. A significant percentage of the collegiate hockey community also supports amending Proposal No. 2009-24.

Unlike the vast majority of NCAA-sponsored sports, men's ice hockey faces a unique and significant challenge with respect to attracting prospective student-athletes (PSAs) because the sport is in direct competition with Major Junior A (i.e., the Canadian Hockey League comprised of the Ontario, Western and Quebec Major Junior Hockey Leagues). As the recipient of millions of dollars in funding from the NHL, Major Junior A has in recent years taken steps to compromise the amateurism of PSAs, both in the United States and in Canada. Efforts include establishing a draft at an early age (16 years), requiring players to sign contracts, and enacting travel and participation rules that limit opportunities for PSAs in Canada to play outside of Major Junior A.

While Proposal No. 2009-22 seemingly would benefit men's ice hockey by reducing the ability of Major Junior A to compromise or taint PSAs, we strongly believe the legislation, if enacted, would be a significant detriment to the sport and the PSAs whom it is intended to benefit.

Currently, the vast majority of PSAs are cognizant that they jeopardize their collegiate eligibility if they compete in Major Junior A. Amending the legislation to permit PSAs to compete in such leagues would reduce such risk on the surface; however, the increased number of PSAs "testing the waters" in Major Junior A would result in greater numbers of PSAs forfeiting their collegiate eligibility. This unfortunate outcome would be realized because once PSAs enter Major Junior A, teams most certainly will take all possible steps (i.e., paying more than actual and necessary expenses, etc.) to ensure that individuals have no other options but to continue playing Major Junior A.

Permitting involvement with a professional team is not the only concern presented in Proposal No. 2009-22. We also overwhelmingly oppose the delayed-enrollment provision requiring PSAs who do not initially enroll full-time within one year after graduation of their high-school class to fulfill an academic year in residence before being eligible to compete.

While we appreciate the issues delayed enrollment may present in other sports, the ability of PSAs to experience more than one year of post-graduate studies and competition in junior hockey has resulted in significant and noteworthy accomplishments in the classroom and greater competitive balance within the sport.

According to NCAA Division I Academic Progress Rates (APR) from 2004-05 through 2007-08, of the Division I men's sports with sponsorship of 50 or more institutions, men's ice hockey ranked in the top three each year, including No. 1 in 2004-05 and 2007-08. Further, the sport has ranked first in eligibility rates for five consecutive years among Division I men's sports with sponsorship of 50 or more institutions.

Implementation of delayed-enrollment penalties would significantly impact men's ice hockey in light of the fact that nearly 55 percent of student-athletes comprising the three most recent incoming classes (2007, 2008 and 2009) spent more than one year competing in junior hockey.

With regard to Proposal No. 2009-24, permitting prospective and enrolled student-athletes to receive reimbursement of actual and necessary expenses to attend rookie camps puts student-athletes on equal footing with individuals from Major Junior A, who already receive such benefits. More importantly, however, permitting reimbursement would eliminate the financial burden student-athletes encounter, as well as the stress and anxiety they may experience when contemplating whether to attend the camps. Finally, including rookie camps as part of the proposal is consistent with the intent of the original proposal because it permits an NHL organization to provide reimbursement of expenses.

In closing, we respectfully request that the Cabinet amend the legislative proposals as stated above at its September 2009 meeting, and that the amended proposals be forwarded to the respective NCAA Division I Governance bodies for their consideration.

Thank you very much for your consideration.

Thomas Anastos
President
Hockey Commissioners' Association

Joseph Bertagna
Executive Director
American Hockey Coaches Association

cc: Mr. Seth Appert, Head Men's Ice Hockey Coach, Rensselaer Polytechnic Institute
Mr. Robert DeGregorio, Commissioner, Atlantic Hockey Association
Mr. George Gwozdecky, Head Men's Ice Hockey Coach, University of Denver
Mr. Stephen Hagwell, Commissioner, ECAC Hockey
Mr. Jeffrey Jackson, Head Men's Ice Hockey Coach, University of Notre Dame
Mr. James Knowlton, Director of Athletics, Rensselaer Polytechnic Institute
Mr. Joel Maturi, Director of Athletics, University of Minnesota
Mr. Ed McLaughlin, Commissioner, College Hockey America
Mr. Bruce McLeod, Commissioner, Western Collegiate Hockey Association (WCHA)
Mr. David Ogrean, Executive Director, USA Hockey
Mr. Jack Parker, Head Men's Ice Hockey Coach, Boston University
Mr. Marty Scarano, Director of Athletics, University of New Hampshire
Mr. Jeff Schulman, Senior Associate Director of Athletics, University of Vermont
Mr. Geoffrey Silver, NCAA Associate Director of Membership Services
Mr. John Swarbrick Jr., Director of Athletics, University of Notre Dame
Mr. Wayne Wilson, Head Men's Ice Hockey Coach, Rochester Institute of Technology

VIA ELECTRONIC MAIL

MEMORANDUM

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September 8, 2009

TO: Rachel Newman Baker and Division I Amateurism Cabinet.

FROM: Marcus Blossom
Assistant Director of Championships.

SUBJECT: Recommendation from Women's Water Polo Committee.

The women's water polo committee recommends that women's water polo be included in Bylaw 14.2.3.2 which currently is specific to tennis, swimming and diving. However, the committee wants to add an exception that permits women's water polo student-athletes to be mandated to fulfill an academic semester (not an academic year) in residence before being eligible to represent the institution in intercollegiate women's water polo - after the initial one-year period that is needed to be immediately eligible.

Currently, there is no rule in place that prohibits potential women's water polo student-athletes from competing immediately after high school in clubs or leagues that are just as competitive as the NCAA collegiate level, and then enrolling in college and still having four years to compete. Also, there have been several instances where women's water polo student-athletes have enrolled at a university just to compete for a semester, then returned to their normal club team overseas. Mandating that a potential women's water polo student-athlete fulfill an academic semester will eliminate this possibility.

This recommendation will be beneficial because it will prevent players that are much older and have much more playing experience from competing against women's water polo student-athletes that are between the ages of 17 – 22. Hence, this recommendation will prevent institutions from recruiting players that have a tremendous physical advantage over most others. It also will emphasize the educational component of collegiate athletics by mandating that a future women's water polo student-athlete that has sat out at least one year fulfill an academic semester. Moreover, it attempts to assure us that student-athletes are competing in water polo with the idea of getting an education and not just competing athletically.

Likely opposition will be women's water polo coaches that recruit international student-athletes that have been out of high school for more than a year. This recommendation could not only end up reducing the number of years these student-athletes are eligible to compete, but also require them attend a semester of school before competition begins. The committee's response to this opposition would be simple. The committee believes that coaches that recruit student-athletes that are legitimately interested in receiving a college education and that don't have a physical/mental advantage because of age and experience level that is close to that of being a professional.

There is some potential impact on the student-athlete if this recommendation is approved. This recommendation may cause a potential student-athlete to have to pay for tuition, room and board for a semester in which they are not competing. If this recommendation is rejected, then potentially a student-athlete can enroll in school only for the semester in which they plan to compete. Additionally, this recommendation will require student-athletes that have been a high school graduate for at least a year to fulfill a college academic semester before being able to compete in women's water polo. It may also reduce the number of eligible years some student-athletes have to compete if they have been a high-school graduate for more than one year because the eligible years are reduced after each one-year period.

Thanks so much for taking the time to review this recommendation from the women's water polo committee. And, if you have any questions please don't hesitate to contact me.

MB:lc

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.

Task Force Chair:
Graham Spanier, president, Pennsylvania State University

Other Task Force Members:
Michael Adams, president, University of Georgia
James Barker, president, Clemson University
Frank Brogan, president, Florida Atlantic University
David Frohnmayer, president, University of Oregon
Walter Harrison, president, University of Hartford
Harvey Perlman, chancellor, University of Nebraska, Lincoln
John Peters, president, Northern Illinois University
Shirley Raines, president, University of Memphis
David Schmidly, president, University of New Mexico
Nancy Zimpher, president, University of Cincinnati

Task Force Consultants:
Elizabeth Altmaier, faculty athletics representative, University of Iowa

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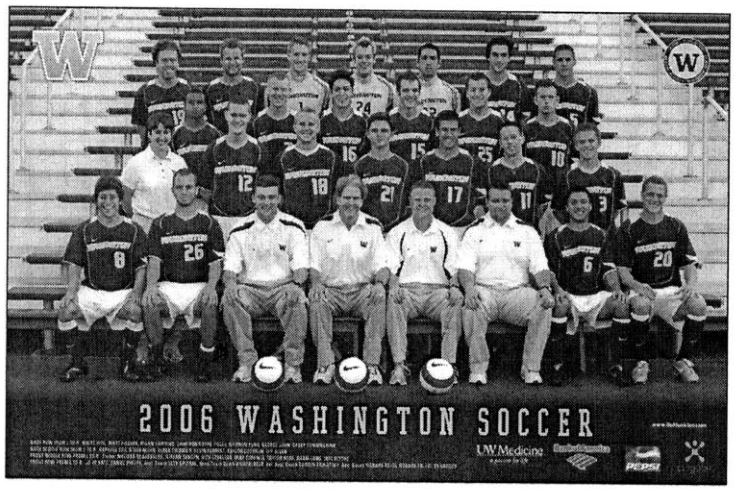
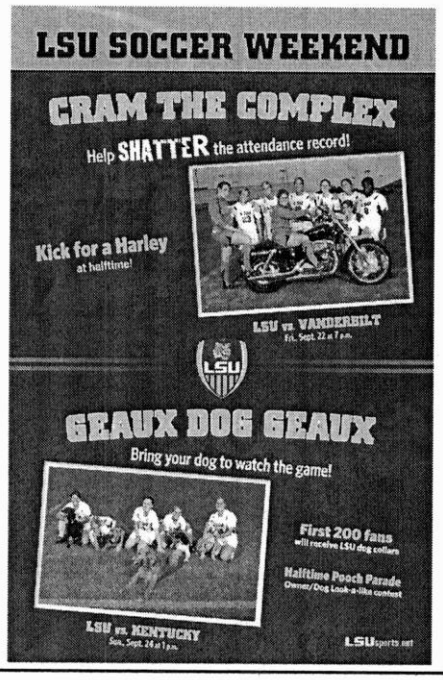
Robert Bowlsby, director of athletics, Stanford University
Christine Plonsky, director of women's athletics, University of Texas at Austin
Doug Fullerton, commissioner, Big Sky Conference
John Swofford, commissioner, Atlantic Coast Conference
Craig Thompson, commissioner, Mountain West Conference
Keith Tribble, director of athletics, University of Central Florida

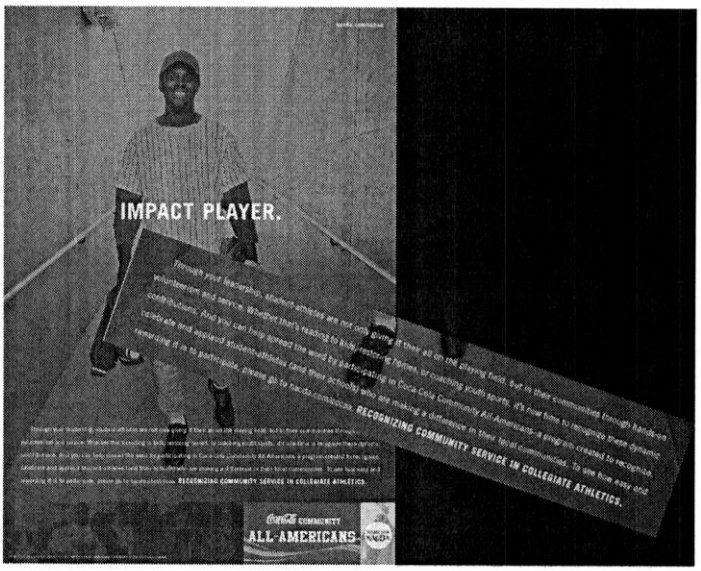


Would allow for the Nike logo to be included at the bottom with other sponsors in addition to the "swoosh" on athletics equipment and apparel.

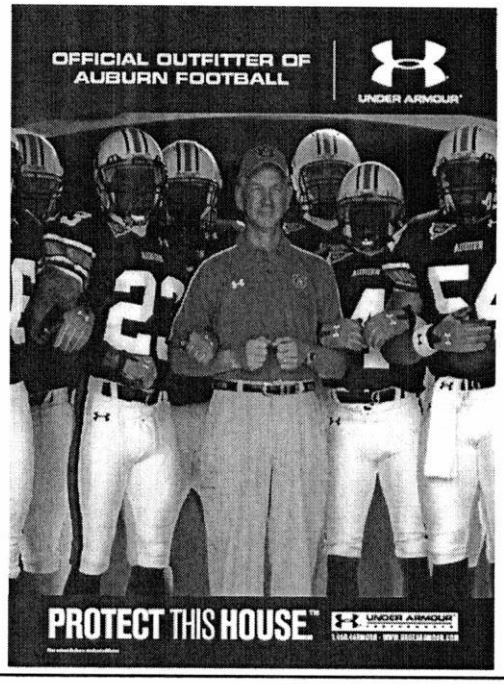


The assumption here is that Harley is not a cosponsor.

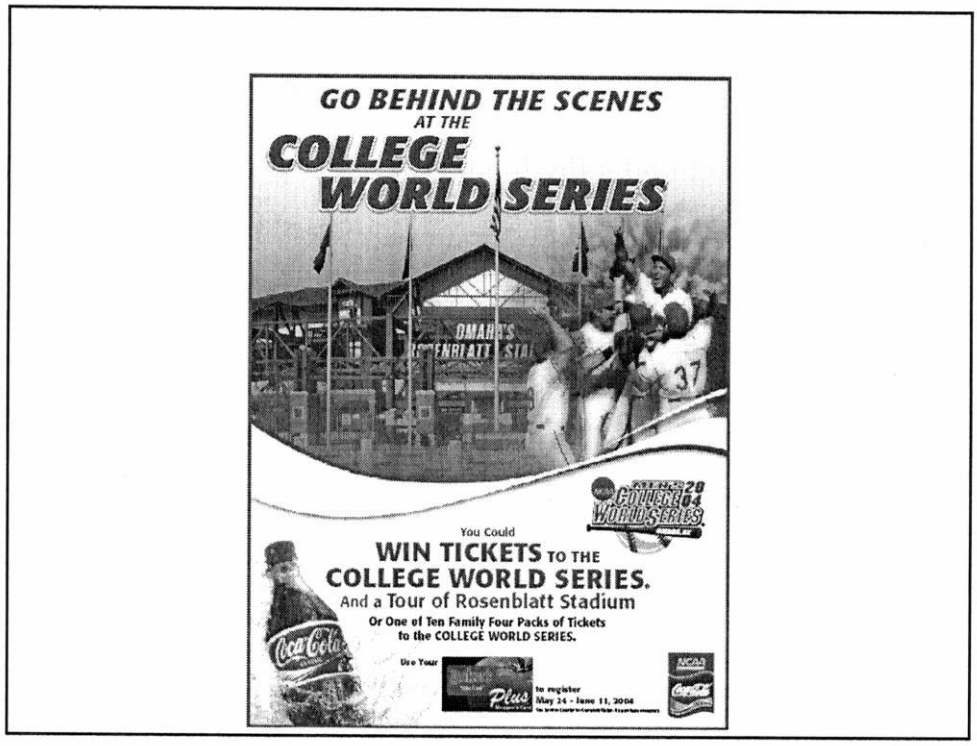
The "Make your PAPA proud!" and "Ask about our UCR student specials" call to action (to purchase) language would not be permissible.



This is a NACDA promotion and an example of Coke using two logos. Under the current rule they had to use an actor for this.

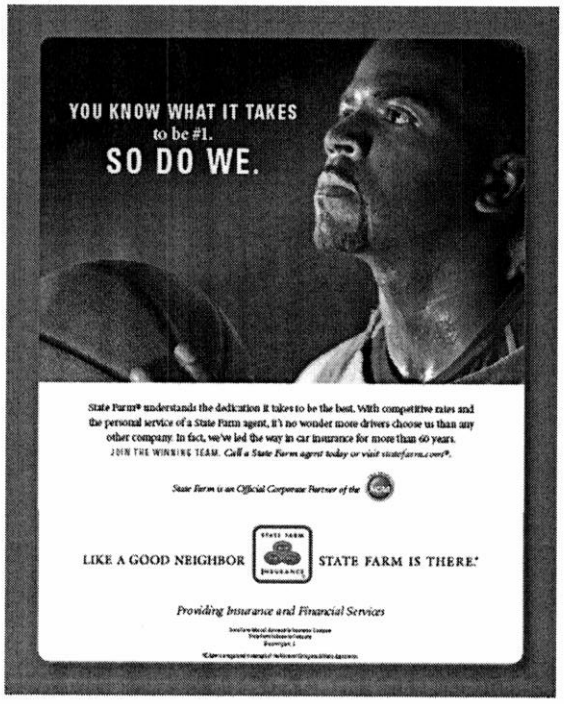


This one isn't clear that it is a "competition" photograph, but it would have to be in conjunction with competition to be permissible.

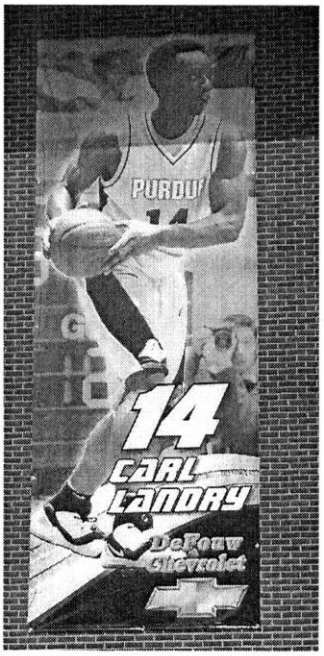


This allow for the product to appear with a competition photograph of student-athletes.

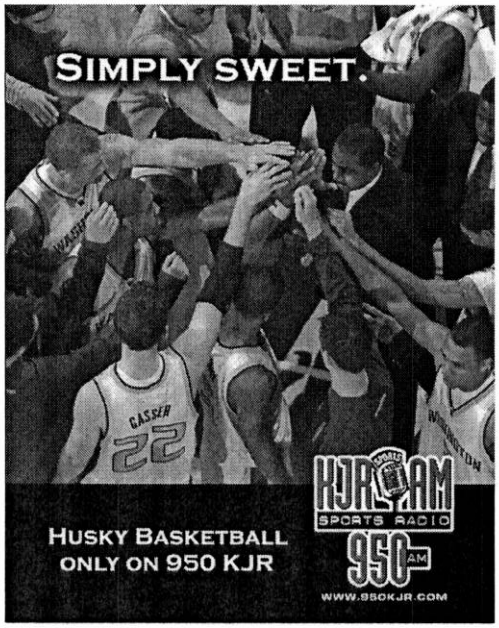
Same as previous.



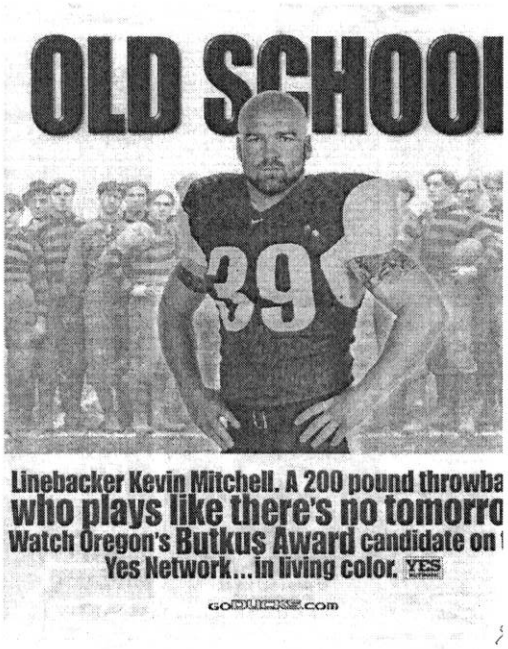
In this print ad, State Farm used an actor, but think about a photo from a game (and multiple student-athletes) in this commercial advertisement.



This was a banner at a member institution's athletic venue; now think about the game footage used at a commercial entities place of business (would most likely need more than one student-athlete)



Here is an example of how a radio broadcast is promoted with current student-athletes from a member institution rights holder.



This is an example of a TV Broadcast ad in conjunction with a member institution (not really promoting a specific broadcast) using a current student-athlete (interesting example, especially with the Big Ten Network).

REPORT OF
THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION
DIVISION I COMMUNICATIONS AND COORDINATION COMMITTEE
CONFERENCE CALL

Participants: August 12, 2009

Matt Baysinger, Big Twelve Conference – (SAAC)
Grace Calhoun, Indiana University – (Awards, Benefits, Expenses and Financial Aid Cabinet)
Carolyn Callahan, University of Virginia – (Academic Cabinet)
Joseph D'Antonio, Big East Conference – (Legislative Council)
Rob Halvaks, Big West Conference – (Administration Cabinet)
Petrina Long, UCLA – (Recruiting/Athletics Personnel Cabinet)
Mike Rogers, Baylor University – (Amateurism Cabinet)
Jeff Schemmel, San Diego State University – (Championships/Sports Management Cabinet)
Beth DeBauche, NCAA – recording secretary

Damon Evans, chair of the Leadership Council was unable to participate on the call.

NCAA staff: David Berst, Matt Burgemeister, Jeremiah Carter, Julie Cromer, Diane Dickman, Kelly Groddy, Lynn Holzman, Michelle Hosick, Brad Hostetter, Kevin Lennon, Steve Mallonee, Pat McConney, Delise O'Meally, Dave Schnase, Maricela Shukie, Geoff Silver, Mark Tschaggeny, and Sharon Tufano also participated on the call.

The conference call was called to order at 2:05 p.m. by the staff liaison Beth DeBauche.

1. Welcome and opening remarks. The committee was reminded that this call marks the one year anniversary for both the committee and the new Division I governance structure. It was noted that it has been a productive first year.

2. Recap of items of significance from the June cabinet meetings and conference calls. The cabinet chairs shared meeting highlights as follows:

   a. Academic Cabinet.

   (1) Review of Initial-Eligibility Standards. As part of its legislated duty to manage and monitor eligibility standards, the Academic Cabinet began a review of the division's initial-eligibility requirements by drafting goals and principles to guide its future work on this issue. The cabinet welcomes feedback from other cabinets regarding these draft items and will continue its review during its September meeting.

   (2) Nontraditional Courses for Initial Eligibility. The cabinet sponsored legislation to specify that nontraditional courses may be used to satisfy NCAA core-

course requirements, provided the instructor and student have regular and ongoing interaction for purposes of teaching and evaluation throughout the duration of the course, the course uses a system that permits review and validation of the student's coursework, and the course has a defined timeline for completion. The cabinet will continue to examine the issue of nontraditional courses, though it is not sponsoring additional legislation in this legislative cycle.

(3) Explanation of "Academic Impact". The cabinet asked that the Legislative Council consider a policy revision that would require an explanation of the academic impact to accompany every legislative proposal. A variety of comments were offered by committee members including that such a reference may best be addressed in the rationale statement.

(4) Bylaw and Practices Review. The cabinet reviewed several possible concepts identified to provide cost savings to the membership and determined that most would provide little direct financial relief and possibly could jeopardize the Association's principles of sound academic standards and competitive equity. The cabinet also noted that a significant portion of institutional expenditures related to academics and eligibility are for academic support resources and are difficult to address via legislative or policy changes.

b. Administration Cabinet.

(1) Annual Review/Advancement of Provisional/Reclassifying Members. The cabinet reviewed the progress of 18 institutions currently in the process of reclassifying their sports programs to Division I active status. During its review, the cabinet identified consistent areas of concern regarding reclassifying institutions, including: poor academic performance rates, funding coming primarily from student fees or institutional funds outside the athletics department, financial aid budgets, athletics department staff having both coaching and administrative roles, and compliance and monitoring issues.

(2) Committee Appointments. The cabinet continued to look for ways to enhance the committee appointment process in order to ensure that all 31 multisport conferences are fairly represented, and that the cabinet is well positioned to identify the best nominees for specific committee vacancies.

(3) Governance Assessment Tool. The cabinet is working with the NCAA research staff to develop an assessment tool to determine if the new governance structure is achieving its stated goals and objectives. Members of the Communications and Coordination Committee will be asked to participate in this effort.

c. Amateurism Cabinet.

(1) Commercial Activity in Division I Intercollegiate Athletics. The cabinet reviewed the final report of the Task Force on Commercial Activity in Intercollegiate Athletics and identified several issues for further discussion at its September meeting. It is anticipated that the cabinet will review examples of various new media concepts involving the use of student-athletes' images or names in order to facilitate the discussion.

(2) Bylaw and Practices Review. At the request of the Board of Directors, the cabinet reviewed Bylaw 12 for areas of possible cost savings and agreed to continue its examination of the legislation at its September meeting. The cabinet also solicited the assistance of the National Association of Athletics Compliance (NAAC) for suggestions as to possible legislative change(s).

d. Awards, Benefits, Expenses and Financial Aid Cabinet.

(1) Review of Current Financial Aid Model. The cabinet continued its review of the current financial aid model and concluded that the financial aid rules are too complicated, and that the expansive federal and state regulation causes many financial aid professionals to feel overregulated. The cabinet formulated three hypothetical financial aid models representing a moderate change, a significant change, and a radical change to the current model. These models will be discussed further during the September meeting and broader membership feedback will be sought in the fall.

(2) Maximum Equivalency Limits – Sand Volleyball. The cabinet sponsored legislation for the 2009-10 legislative cycle related to team financial aid limits in the sport of sand volleyball.

(3) One-year Award Period. The cabinet engaged in a discussion of the current one-year period for athletics-based financial aid awards, including whether a multi-year award would be an acceptable option. The cabinet will discuss this issue further at its September meeting.

(4) Letter of Intent Limits. The cabinet is looking into which conferences have limits on the number of Letters of Intent that may be signed by prospective student-athletes in a specific sport each year. The cabinet is exploring the question of whether conferences and institutions should regulate this area or whether there should be a national standard. The cabinet will address this issue further at its September meeting.

e. Championships/Sports Management Cabinet.

(1) Championships Budget Issues. The cabinet is analyzing what the championships budget might be in the future and is drafting a letter to be sent to all sports committees requesting that each committee prioritize their budgets and run a budget analysis with five and ten percent budget decreases and increases. The sports committees will be asked to return the results of this budget exercise to the Championships/Sports Management Cabinet by the cabinet's winter meeting.

(2) Bylaw and Practices Review. The cabinet members were encouraged to think about potential changes to Bylaws 17 and 31 that might result in cost savings for the membership. The cabinet has received quality responses and plans further discussion at its September meeting.

(3) Sand Volleyball Playing and Practice Season. The cabinet discussed a proposed sand volleyball playing and practice season model and contest limitations but agreed to delay action on these items until the Legislative Council considered the membership's override request on Proposal No. 2008-59.

f. Recruiting and Athletics Personnel Cabinet.

(1) Sponsored Proposals. The cabinet sponsored 10 legislative proposals in the 2009-10 legislative cycle, including legislation regarding student assistant coaches, non-coaching staff with sport-specific responsibilities and managers.

(2) Coaching Limits and Athletics Personnel Issues. The cabinet affirmed current legislation regarding countable coaches and volunteer coaches, and agreed to further study the positions of graduate assistant coaches and non-coaching staff with sport-specific responsibilities.

(3) Recruiting Materials. The cabinet examined current legislation regarding institutional letterhead, printed media guides and audio/video materials. It sponsored legislation to set forth restrictions on institutional letterhead. The cabinet also sponsored legislation to deregulate the current restrictions on audio/video materials. The committee is considering whether the current technology being utilized for recruitment purposes has surpassed the current legislation regarding recruitment practices.

(4) Definition of Recruitment. Upon request of the Awards, Benefits, Expenses and Financial Aid Cabinet, the Recruiting and Athletics Personnel Cabinet will work to further define the word "recruitment" at its September meeting.

(5) Bylaw and Practices Review. At the direction of the Board of Directors, the cabinet engaged in an examination of Bylaws 11 and 13 and created an initial list of possible amendments and policy changes that could provide financial and operational relief to the membership. The cabinet noted that further examination and discussion would be needed prior to any actions being taken.

g. Student-Athlete Advisory Committee.

(1) Commercial Activity in Intercollegiate Athletics. SAAC reviewed the report of the Task Force on Commercial Activity in Intercollegiate Athletics and sought to identify which principles would benefit from student-athlete feedback. The SAAC is preparing information to assist student-athletes in understanding the report.

(2) Bylaw and Practices Review. The SAAC identified areas of potential cost savings that would have a minimal impact on the student-athlete experience.

(3) Findings of the Men's Basketball Academic Enhancement Group. The SAAC received the report of the Men's Basketball Academic Enhancement Group. The SAAC took no formal position on the report and will seek feedback from men's basketball student-athletes before doing so.

3. Lessons Learned – Best practices shared.

a. Update regarding request for bylaw review. The committee members were reminded to make the review of bylaws to identify potential cost savings a priority for their September cabinet agendas. This timeframe is based on the fact the staff is planning to forward a listing of cabinet-developed amendments to the councils in October. In October, the councils will be asked to develop a prioritized list of possible legislative amendments. This list will be presented to the Board at its October meeting for possible legislative sponsorship in the 2009-10 cycle. Given the legislative deadline, cabinet work not completed in September will have to be brought forward for the 2010-11 legislative cycle.

b. Successful communications strategies and meeting structure. The committee members shared practices that worked well during their meetings as follows:

(1) Recruiting Cabinet. The Recruiting Cabinet reported success with engaging its members in small group discussions regarding potential cost savings measures. The chair noted this meeting format appears to result in a higher level of dialogue and camaraderie among the members.

(2) Academic Cabinet. The Academic Cabinet indicated having success in enhancing the level of dialogue by using a small group discussion format as well. The cabinet also reported that it is continuing its practice of conducting a conference call in advance of its meeting to review governance reports and address preliminary matters. Additionally, the chair shared that she was pleased with how well the video conferencing worked, as a number of staff members joined the meeting using that method.

(3) Championships/Sports Management Cabinet. The cabinet chair noted that despite some technological difficulties, he was generally pleased with the cabinet's June conference call and mentioned that he anticipates the cabinet will try to meet via conference call in the future as their agenda allows.

(4) Amateurism Cabinet. The chair shared that he asked the cabinet members to put cell phones and handheld devices away during the meetings with the understanding he will provide the group with a scheduled break that allows for ample time to contact their offices and homes. The chair reported that the members have responded positively to this practice.

4. Brief updates from the other Division I leadership bodies.

a. Board of Directors. The committee heard that during the August Board of Directors meeting, the Board chair listed issues he views as important to the division's agenda. This list, which is set forth below, reflects much of the ongoing work of the cabinets:

(1) The need to address issues associated with the nontraditional delivery of courses relative to the eligibility of student-athletes.

(2) The impact of Division I initial-eligibility standards and the impact of those standards on academic support personnel.

(3) The proliferation of noncoaching personnel and the impact on competitive equity.

(4) The need to assess whether the Division's academic reform efforts are having the desired impact.

(5) The need to promote intercollegiate athletics in a way that promotes a healthy balance between fiscal responsibility and athletic success in an effort to assist member institutions in making decisions that are consistent with their values.

It was reported that the staff tries to keep the Board informed regarding developments from the governance substructure.

b. Leadership Council. The committee was informed that the Leadership Council's next meeting is scheduled for October 6. During that meeting, the council is expected to continue developing suggested new Division I membership standards. Additionally, the Leadership Council will seek to identify ways to enhance the level of diversity serving in the Division I governance structure. Both of these conversations are important to the Division I agenda and have potential to involve the cabinets.

c. Legislative Council. The committee learned that during a July 30 conference call, the Legislative Council sustained its prior actions in adopting Proposal No. 2008-46 Playing and Practice Seasons – Baseball – Preseason Practice and First Contest – Championship Segment and Proposal No. 2008-59 Division I Membership – Definitions and Applications – Emerging Sports for Women – Sand Volleyball, both of which were subject to override requests from the membership. Subsequently, the Board supported the Legislative Council's determination. Therefore, the matter will be considered by the Division I membership during the 2010 NCAA Convention.

Additionally, the Legislative Council chair informed the group that proposals in the 2009-10 legislative cycle will be published on August 15. He encouraged the chairs to make sure their cabinets provide detailed and constructive comments to help in the development of good legislation.

5. Collaboration zone – pilot program. The committee members were informed that the governance staff is currently working with the national office's IT staff to develop a Collaboration Zone for all the Division I councils and cabinets. This zone, which will provide separate tabs for each governance group, will allow for not only the posting of materials but for a chat room feature. The Amateurism Cabinet has agreed to serve as the pilot group for this project. A tab is also currently being created for the Communications and Coordination Committee so the chairs will have the ability to experiment with the functionality. The members were reminded that this zone is not intended to replace the general posting of information for the membership on the NCAA's Website. The chairs did not offer any objections to the 31 multisport conferences being granted access to the Division I governance.

6. Leadership succession planning. The staff noted that under the current chair rotation schedule, all chairs are scheduled to rotate in April 2010. This complete turnover of the members of the Communications and Coordination Committee will present a problem as much of the history of this group could be lost. Possible solutions that have been identified to address this transitional problem included seeking legislative relief to allow a few of the chairs to serve in their leadership role for an additional year to help stagger terms and allow additional cabinet/council members to participate on Communications and Coordination Committee conference calls. One of the challenges associated with allowing others to participate on the calls is the fact the slate of chairs must reflect the gender, ethnic, positional and subdivisional diversity of Division I. This challenge demands the cabinets and councils work together to identify a slate of chairs. Accordingly, the staff suggested the chairs determine whether they would like to serve for one more year in that role and start to identify a few representatives to serve as a possible successor. The chairs should come to the 2010 Convention meeting prepared with the names of some possible replacements so that the committee can start developing a diverse slate for the Board's consideration.

7. Authority of the chair. The committee members were briefly reminded that unless their cabinet or council took specific action to provide authority to the chair to act on behalf of the cabinet or council between meetings, the chair is not empowered to do so.

8. Reminders regarding objectives in reviewing legislative proposals. The chairs were again reminded that the September cabinet meetings play an important role in the legislative review. The chairs and staff liaisons were encouraged to provide enough detail in their reports so the legislative comments are instructive to the Legislative Council. The chairs and liaisons were asked to review Supplement No. 12, which provides instructions for the cabinets' review of proposals.

9. Student-Athlete Advisory Committee members. The committee members were informed that the Division I SAAC has selected new representatives to the cabinets to replace vacating members. These new SAAC representatives have been through a service training session and are eager to serve. The list of contact information for the SAAC members was provided to the chairs. The chairs were encouraged to actively seek to engage their SAAC representative in both meetings and social activities.

10. Meeting materials. The chairs generally reported that their members appear supportive of the national office's "green"/cost savings measure that has resulted in meeting materials being posted online. The chairs noted there appears to be a mix between members

who print off materials and those that bring their laptops to the meetings. It was suggested that the staff review supplements online in advance of meetings to ensure documents are easily readable on laptops. Further, it was noted that some cabinet members have asked that all meeting supplements be posted to the Website as one document for easier review.

11. Meeting schedule. The committee was provided the composite Division I governance meeting schedule as a point of information. Staff liaisons were encouraged to share this information broadly.

12. Plans for the 2010 NCAA Convention. The chairs expressed an interest in again attending the NCAA Convention. The staff noted that the chairs can anticipate participating in the Joint Councils/SAAC and Joint Councils/Board functions. Further, the chairs should plan to participate in programming during the Division I Issues Forum and in a meeting of the Communications and Coordination Committee. The chairs should plan on being in attendance in Atlanta on January 14-15, 2009.

13. Affiliate update. The committee briefly discussed the importance of sharing information regarding the work of their cabinets and councils with outside affiliate groups to ensure such groups are current with Division I issues. Given the governance staff's relationships with affiliate groups and its efforts to coordinate the priorities on the Division I agenda, the chairs were encouraged to let the staff know if their cabinets or councils have initiatives they want to highlight. As part of this conversation, a few of the chairs noted how helpful it was to attend one of the student-athlete leadership conferences to gain a better understanding of the student-athletes' perspective on issues. The staff agreed to provide the committee with information on the next Division I Student-Athlete Leadership Conference so that they could possibly attend.

14. Proposed future call dates. The Communications and Coordination Committee members asked that the staff check with them after the September series of cabinet meetings to determine whether their next conference call should be scheduled before the October Legislative Council meeting or after the October Board of Directors meeting.

15. Adjournment. The call was adjourned at 3:35 p.m. EDT.

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AMENDMENT OF BYLAW 12 JURISDICTION

Bylaw 12 Jurisdiction.

The amateurism certification process (ACP) staff shall be responsible for certifying pre-enrollment amateur status for Division I and II prospective student-athletes under Bylaw 12. Effective July 1, 2009, the following Bylaws that were under the scope of the agent, gambling and amateurism activities (AGA) staff, shall now be under the jurisdiction of the ACP staff: educational expenses (Bylaw 12.1.2.1.3); preferential treatment (Bylaw 12.1.2.1.6); employment (Bylaw 12.4) and promotional activities (Bylaw 12.5).

DRAFT

AMENDMENTS TO THE ACP INTERVIEW PROCESS PAGE: 15 OF DI and DII ACP Policies and Procedures SUBMITTED TO THE DIVISION I AMATEURISM CABINET

INTERVIEWS

1. Reasons for an Interview.

An ACP staff member may determine that it would be advantageous to interview a PSA. Interviews may be warranted in cases involving language barriers, high profile or elite athletes, leagues or federations from which a large number of PSAs come to the NCAA, potentially significant withholding or other eligibility conditions or any other reasonable circumstance determined at the ACP staff's discretion.

2. Interviewing Methods.

Interviews may be conducted by telephone or in person. Requests for in-person interviews shall be made to and authorized by the director of amateurism certification. In-person interviews may be conducted in reviews involving, for example, high profile athletes and/or issues; the potential for permanent ineligibility or other significant eligibility conditions; Bylaw 10.1 allegations; a large amount of information and documentation; an investigation where in-person investigative techniques may be required; or requests for in-person interviews.

a. Recorded Interviews. It is preferable that an interview conducted by the ACP staff be recorded. If the interviewee objects to being recorded, however, or the Case Manager believes the use of a recording device would have an inhibiting effect on the interviewee, a written statement of the substance of the interview shall be prepared.

(1) Notification of Start and End of Recording. The Case Manager conducting the interview shall confirm, on the record, that the person being interviewed understands that the interview is being recorded. At the completion of the interview, the Case Manager shall indicate the point at which the recording will be stopped.

(2) Transcription of Interview. Following a recorded interview, based on the necessity of the information for a PSA's review, the Case Manager may submit the recording for transcription. All involved parties in a recorded interview may request a copy of the interview transcript from the ACP staff subject to the signing of a confidentiality agreement.

AMENDMENTS TO THE ACP INTERVIEW PROCESS (II)
PAGE: 16 OF DI and DII ACP Policies and Procedures
SUBMITTED TO THE DIVISION I AMATEURISM CABINET

substance of an unrecorded interview for which a signed affirmation was not obtained may nevertheless be considered by the fact-finding committee to the extent the committee determines the testimony reliable. Non-recorded interview summaries and any report prepared by the ACP staff relating to a non-recorded interview are confidential and shall only be provided to necessary parties in a limited manner.

b. Presence of Institutional Representative During an Interview. If an interview with a PSA or athletics department staff member is conducted on the campus of a member institution, an institutional representative(s) (as designated by the institution) shall be permitted to be present during the interview, provided the subject matter to be discussed in the interview relates directly to the individual's institution or could affect the individual's eligibility or employment at the institution. If the ACP staff member will discuss information with a PSA or staff member that is related solely to institutions other than the one in which the PSA is enrolled or staff member is employed and that would not reasonably affect the PSA's eligibility or the staff member's employment, the institutional representative shall not be present during that portion of the interview.

Further, it is permissible for a coach or non-coaching institutional staff member charged with investigating potential rules violations (e.g., compliance coordinator, legal counsel) to contact a PSA [or the PSA's parents or legal guardian(s)] before the permissible date for such contact for the purpose of determining whether a rules violation has occurred. Such a contact (e.g., telephone call, in-person contact) is outside the scope of the recruiting legislation and may occur only if:

(1) The institutional staff member has specific information that indicates that a violation may have occurred;

(2) The contact occurs only with the PSA [or the PSA's parents or legal guardian(s)] that may be affected by the violation; and

(3) The conversation does not include any dialogue in excess of that pertaining to the review.

c. Representation by 3RD party, including Legal Counsel. When an ACP staff member conducts an interview with a PSA or institutional employee that may develop information detrimental to the interests of the PSA or institutional employee, that individual may be represented by a third party, including personal legal counsel throughout the interview.

SUPPLEMENT NO. 12
DI Amateurism Cabinet 9/09

MEMORANDUM

August 27, 2009

TO: NCAA Division I Amateurism Cabinet.

FROM: NCAA Eligibility Center Amateurism Certification Staff.

SUBJECT: New Eligibility Center Web site and Legislative Impact.

Background.

After an considerable effort by select NCAA staff and outside vendors, the NCAA Eligibility Center introduced a new Web site, www.eligibilitycenter.org during the summer applicable to fall 2010-11 enrollees and thereafter. The goal of the new Web site and registration process is to be more user-friendly for both prospective student-athletes and member institutions tracking their status, while capturing more substantive information on the "front-end" of the certification process (academic and amateurism).

While early feedback on the Web site has been positive, the expectation is that various unintended or unanticipated issues will be addressed as the new system is integrated and users become more familiar with the functions. Such is the case with the new Web site and the way in which it "interacts" with two distinct (but related) pieces of amateurism legislation.

Impacted Legislation.

Current official visit legislation [NCAA Bylaw 13.6.3(c)] requires that a prospective student-athlete be "registered" with the Eligibility Center before an official visit may be conducted. Under the former registration system, "registered" was defined as simply providing basic SRF-type information when initially submitting information to the Eligibility Center. Related proposals that previously required prospective student-athletes to further complete the registration before an institution may permissibly have them on an official visit have been rejected by the membership.

Previously approved at the 2009 NCAA Convention, NCAA Proposal No. 2008-25-D (future Bylaw 13.9.1, with an effective date of August 1, 2010) will require the following action before an institution may provide a written offer of athletically-related financial aid to a prospective student-athlete:

- Registration with the Eligibility Center;
- Placement of the prospective student-athlete on an Institutional Request List (IRL); and
- Prospective student-athlete must *complete* the amateurism certification questionnaire.

Legislative Issue.

The new Eligibility Center Web site will require prospective student-athletes to provide SRF-type information AND complete the amateurism questionnaire AND pay the registration fee (or pursue a fee waiver) before a prospective student-athlete will be deemed "registered" within the new system. This new definition of "registered" is consistent with the legislated requirements for institutions to permissibly make written offers of athletics aid/National Letter of Intent that the membership considered and approved in Proposal No. 2008-25-D.

Current Bylaw 13.6.3(c) and the "register with the Eligibility Center" requirement being defined as providing merely SRF-type information is not compatible with the manner in which the new Web site defines "registered" (prospective student-athletes provide SRF-type information AND complete the amateurism questionnaire AND pay the registration fee). Attempting to change the new Web site "back" to the old manner of defining "registered" [for purposes of Bylaw 13.6.3(c)] would be cost-prohibitive and counter-productive at this point.

That said, revising the definition of "registered" for official visits for fall 2010-11 enrollees to require more information from the prospective student-athlete (and more to track for the institution) could reasonably lead to concerns related to institutional notice and whether the new definition has already been legislatively contemplated and rejected by the membership (in 2007).

Recommendation.

This concern is being shared with a number of "affected" governance groups (such as the NCAA Division I Recruiting and Athletics Personnel Issues Cabinet) to receive feedback regarding a possible solution. If supportive, then some "remedy" short of a new legislative proposal (such as emergency, noncontroversial and/or "modification-of-wording" options) combined with an NCAA Division I Legislative Council Subcommittee for Legislative Relief blanket waiver [of the newly-defined "registered" requirement of current Bylaw 13.6.3(c)] for the time period of (approximately) September 1, 2009 thru July 31, 2010 should allow necessary time for institutions to adjust to the new definition of "registered" without triggering inadvertent violations related to this issue.

MGM:djt

SUPPLEMENT NO. 13
DI Amateurism Cabinet 9/09

MEMORANDUM

August 27, 2009

TO: NCAA Division I Amateurism Cabinet.

FROM: NCAA Eligibility Center Amateurism Certification Staff.

SUBJECT: Recent Practice Blanket Waiver Approval.

Background.

On August 25, the Division I Legislative Council Subcommittee for Legislative Relief approved a blanket waiver to permit, for the 2009-10 academic year, recruited and nonrecruited student-athletes to engage in countable athletically-related activities, except for competition, beyond the 14- and 45-day limits noted in NCAA Bylaw 12.1.1.1.3.1 (temporary certification – recruited student-athlete) and Bylaw 12.1.1.1.3.2 (temporary certification – nonrecruited student-athlete). [See Enclosure] This blanket waiver has been granted annually for the past three years. The Subcommittee for Legislative Relief approval of this latest practice blanket waiver contains expressed language that the Amateurism Cabinet "will review the temporary certification legislation to determine if changes to the current 14- and 45-day periods are appropriate."

Original Legislative Intent.

A review of the specific legislative proposals for Bylaws 12.1.1.1.3.1 and 12.1.1.1.3.2 as well as the original legislation related to the establishment of the amateurism certification process for first-time enrollees in Division I does not indicate with clarity the original intent of Bylaws 12.1.1.1.3.1 and 12.1.1.1.3.2. [See Enclosure] It can reasonably be surmised that these Bylaws (at least in part) were originally designed to promote certainty for the membership by enhancing the likelihood that an individual prospective student-athlete will have a final amateurism determination prior to or shortly after the start of formal practice in a particular sport. Another possible original intention of these Bylaws is that they would promote competitive equity by not allowing high-level prospective student-athletes with significantly "compromised" amateur statuses to contribute to the betterment of their team via extended practice participation in lieu of a final amateurism certification decision and/or eligibility to compete.

Conclusion.

Rather than requesting the Amateurism Cabinet to support a specified "remedy" to the year-by-year blanket waiver approach to this issue (such as a legislative change and/or proposal), the amateurism certification staff simply seeks feedback from the Amateurism Cabinet on this issue and the relative impact it has at the campus level.

MGM:djt
Enclosure

Legislative Relief Waiver Report

NCAA Confidential - Internal Distribution Only

Case Number 12200

Action Granted

Decision Date August 25, 2009

Institution Baylor University

Division I

Sport(s)

Athletes(s)
Numerous

Bylaw(s)
12.1.1.1.3 Eligibility for Practice or Competition.
12.1.1.1.3.1 Temporary Certification — Recruited Student-Athlete.
12.1.1.1.3.2 Temporary Certification — Nonrecruited Student-Athlete.

Facts:
The NCAA amateurism certification staff at the NCAA Eligibility Center provides thousands of amateurism certification decisions for each incoming NCAA Division I and II class, including a large number of urgent requests during the month of August and into early September. Although the Eligibility Center has been educating institutions throughout the past two years of the important role the institutions play in assuring prospective student-athletes (PSAs) register as early as possible, the Eligibility Center continues to face scenarios during the early fall in which the 14-day practice period for recruited PSAs and the 45-day practice period for nonrecruited PSAs are an issue. Applicant institution notes a blanket waiver was granted for the 14-/45-day practice periods during the 2007-08 and 2008-09 academic years as a proactive measure to ensure student-athletes (SAs) (especially winter and spring sport SAs) were not detrimentally impacted due to the high volume of cases the Eligibility Center was processing during its first two years in operation. Applicant institution notes a blanket waiver is appropriate again this year to help balance the volume of urgent requests due to late registrants, delayed responses for additional information and the time required to complete amateurism certifications. In addition, applicant institution notes a recommendation will be made to the NCAA Division I Amateurism Cabinet to review the temporary certification legislation to ensure 14 and 45 days are an appropriate amount of time considering the volume of information necessary to certify a PSA's amateur status. Applicant institution requests the NCAA Division I Legislative Council Subcommittee for Legislative Relief grant a blanket waiver for the 2009-10 academic year to permit recruited and nonrecruited SAs to practice (but not compete) while awaiting final amateurism certification from the NCAA.

Request of Institution:
Waive the normal application of the temporary certification practice period legislation and issue a blanket waiver for the 2009-10 academic year to permit recruited and nonrecruited SAs to practice (but not compete) while awaiting final amateurism certification from the NCAA.

Rationale:
SUBCOMMITTEE GRANTED (August 25, 2009): The Subcommittee for Legislative Relief approved a blanket waiver to permit, for the 2009-10 academic year, recruited and nonrecruited SAs to engage in countable athletically related activities, except for competition, beyond the 14-day and 45-day limits noted in NCAA Bylaws 12.1.1.1.3.1 and 12.1.1.1.3.2. SAs who have requested final amateur certification and who are on the institution's Institutional Request List may engage in countable athletically related activities, except for competition, until a final amateurism certification is completed, provided the SA is otherwise eligible to practice (e.g., meets initial-eligibility requirements). The subcommittee noted the blanket waiver is appropriate to provide some flexibility for the NCAA amateurism certification staff due to the high volume of urgent amateur cases (especially during the months of August and September) as a result of late registrants, delayed responses for additional information and the time required to complete amateurism certifications with the Eligibility Center. Further, the subcommittee noted that SAs may not compete until a final certification is complete and those SAs who receive a final certification that prohibits them from practicing may not use this blanket waiver. This blanket waiver only applies to amateurism certifications and does not apply to the temporary certification legislation for academic certifications in Bylaws 14.3.5.1.1 and 14.3.5.1.2. Finally, the subcommittee noted the Amateurism Cabinet will review the temporary certification legislation to determine if changes to the current 14-day and 45-day periods are appropriate.

Legislation:

12.1.1.1.3 Eligibility for Practice or Competition.

Prior to engaging in practice or competition, a student-athlete shall receive a final certification of amateur status based on activities that occur prior to his or her request for final certification or initial full-time enrollment at an NCAA Division I or II institution (whichever occurs earlier). *(Adopted: 4/30/07)*

12.1.1.1.3.1 Temporary Certification — Recruited Student-Athlete.

If a recruited prospective student-athlete reports for athletics participation before the student's amateur status has been certified, the student may practice, but not compete, for a maximum period of 14 days. After this period, the student shall have his or her amateur status certified to continue to practice or compete. *(Adopted: 1/9/06 effective 8/1/06, for all final certifications for student-athletes initially enrolling at a Division I or Division II institution on or after 8/1/07)*

12.1.1.1.3.2 Temporary Certification — Nonrecruited Student-Athlete.

If a nonrecruited prospective student-athlete reports for athletics participation before the student's amateur status has been certified, the student may practice, but not compete, for a maximum period of 45 days. After this period, the student shall have had his or her amateur status certified to continue to practice or to compete. *(Adopted: 1/9/06 effective 8/1/06, for all final certifications for student-athletes initially enrolling at a Division I or Division II institution on or after 8/1/07)*

maintaining the current restrictions on the types of entities (i.e., institutional, charitable educational, nonprofit) that may use the name, picture or appearance of a student-athlete. The requirement to have the institution's president or chancellor approve these promotional activities is not intended to have the president or chancellor approve every promotional activity. However, the expectation is that the president or chancellor will oversee the activities to ensure that the institution's obligation to protect the student-athlete from exploitation is balanced with the institution's need to enhance the mutual benefits derived from a relationship with corporate entities. Both the requirement to identify the relationship between the commercial and permissible entities and the 25 percent limitation serves to maintain the focus of the promotion on the permissible entity. Finally, the principle of amateurism is sustained through precluding any encouragement of the purchase or use of the product and the prohibition on any direct endorsement of a student-athlete.

Estimated Budget Impact: Potential for increased revenue.

Estimated Time Impact: None.

Position Statement(s)

Academics/Eligibility/Compliance Cabinet: The cabinet opposes Proposal No. 2005-26. The cabinet is concerned that, as written, the proposal may compromise the "principle" of amateurism and is not consistent with limitations on the use of the names or pictures of student-athletes in other bylaws (e.g., camp brochures). Further, allowing 25 percent of the promotion to include the presence of a commercial entity will be difficult to calculate consistently among institutions.

History:

Aug 08, 2005 Board of Directors sponsored the proposal.

Aug 10, 2005 Submit; Submitted for consideration.

Sep 09, 2005 Academics/Eligibility/Compliance Cabinet, Recommends Defeat; See position statement.

NO. 2005-37 AMATEURISM — GENERAL REGULATION — VALIDITY OF AMATEUR STATUS — PROSPECTIVE OR TRANSFER STUDENT-ATHLETE

Intent: To require NCAA certification of the amateur status of any prospective student-athlete (including two- and four-year transfers) initially enrolling at an NCAA Division I institution.

A. **Bylaws:** Amend 12.1 by adding new 12.1.1, pages 70-71, as follows:

"12.1 GENERAL REGULATIONS

"12.1.1 Validity of Amateur Status. As a condition and obligation of membership, it is the responsibility of an in-

stitution to determine the validity of the information on which the amateur status of a prospective student-athlete (e.g., including two- year and four-year college transfers initially enrolling at an NCAA Division I institution) is based. An institution is responsible for notifying the NCAA when it receives additional information, or otherwise has cause to believe, that a prospective or transfer student-athlete's amateur status that has been previously certified has been jeopardized. (See Bylaw 14.01.3)

"12.1.1.1 Amateurism Certification Clearinghouse. An institution shall utilize an amateurism clearinghouse approved by the Executive Committee to determine the validity of the information on which the amateur status of a student-athlete is based.

"12.1.1.1.1 Temporary Certification — Recruited Student-Athlete. If a recruited prospective student-athlete (per Bylaw 12.1.1) reports for athletics participation before the student's amateur status has been certified, the student may practice, but not compete, for a maximum of fourteen days. After this period, the student shall have his or her amateur status certified to continue to practice or to compete.

"12.1.1.1.2 Temporary Certification — Nonrecruited Student-Athlete. If a nonrecruited prospective student-athlete (per Bylaw 12.1.1) reports for athletics participation before the student's amateur status has been certified, the student may practice, but not compete, for a maximum of 45 days. After this period, the student shall have had his or her amateur status certified to continue to practice or to compete."

[12.1.1 through 12.1.2 renumbered as 12.1.2 through 12.1.3, unchanged.]

B. **Bylaws:** Amend 14.01.3.1, page 133, as follows:

"14.01 General Principles.

[14.01.1 through 14.01.2 unchanged.]

"14.01.3 Compliance with Other NCAA and Conference Legislation. To be eligible to represent an institution in intercollegiate athletics competition, a student-athlete shall be in compliance with all applicable provisions of the constitution and bylaws of the Association and all rules and regulations of the institution and the conference(s), if any, of which the institution is a member. Specific attention is called to legislation affecting eligibility in the following areas."14.01.3.1 Amateurism. A student-athlete shall not be eligible for participation in an intercollegiate sport if the individual takes or has taken pay, or has accepted the promise of pay in any

form, for participation in that sport, or if the individual has violated any of the other regulations related to amateurism set forth in Bylaw 12. **(See Bylaw 12.1.1)**"

[Remainder of 14.01 unchanged.]

C. **Bylaws:** Amend 21.7.6.2.2, page 384, as follows:

"21.7.6.2.2 Duties. The cabinet (or a subcommittee designated by it) shall:

[21.7.6.2.2-(a) through 21.7.6.2.2-(g) unchanged.]

"(h) Make recommendations concerning the distribution of developmental funds from professional sports organizations; *and*

"(i) Study and make recommendations to the Management Council concerning the principles governing financial aid. **; and**

"(j) Determine facts related to the certification of amateur status per Bylaw 12.01.1."

Source: NCAA Division I Management Council (Academics/Eligibility/Compliance Cabinet) (Women's Basketball Issues Committee) (Student-Athlete Reinstatement Committee).

Effective Date: August 1, 2006, for all final certifications for student-athletes initially enrolling at a Division I institution on or after August 1, 2007.

Category: Amendment

Topical Area: Amateurism

Rationale: This proposal, which creates an amateurism clearinghouse, is designed to address the membership's concerns about amateurism issues related to both international and domestic prospects. This proposal will require member institutions to use the clearinghouse to certify the amateur status of any prospective student-athlete, (including two-year or four-year transfers from non NCAA institutions) initially enrolling at an NCAA Division I institution. The amateurism clearinghouse will assist in maintaining competitive equity in recruiting and promoting student-athlete well-being. A centralized clearinghouse for amateurism issues will ensure that consistent information is gathered for each prospective student-athlete; thus, no institution has an advantage over another based on resources available (e.g., staffing, funding) to investigate the prospect's situation. The amateurism clearinghouse will make certification decisions for all student-athletes, both domestic and international, prior to initial participation in intercollegiate athletics at a Division I member institution, which should allow institutions to be more fiscally responsible in the recruiting process.

Estimated Budget Impact: Not yet determined.

Estimated Time Impact: Considerable decrease on the time and effort often expended by international prospective student-athletes in collecting documentation from their home country.

Position Statement(s)

Academics/Eligibility/Compliance Cabinet: The cabinet supports the proposal with the modification of the effective date. (See History Section).

Women's Basketball Issues Committee: The Women's Basketball Issues Committee supports this proposal, but during its review recommended that the staff examine timing issues associated with the certification process to ensure that the clearinghouse would not become "clogged" with certification decisions that would preclude student-athletes from being able to compete in a timely fashion.

Student-Athlete Reinstatement Committee: The reinstatement committee supports the establishment of a central body to review the amateur status of prospective student-athletes. The committee has seen the difficulty establishing the factual nature of issues and believes this entity will enable a consistent determination of the facts for all student-athletes. The committee noted a couple issues that need to be considered in the development of the NCAA Amateurism Clearinghouse. First there is a need for communication in establishing how the clearinghouse interfaces with the student-athlete reinstatement staff and committee. The committee recognized that this may change current practices with reinstatement and noted it would discuss in more detail at its next in-person meeting. Second, the goal of the clearinghouse should allow for schools to feel comfortable that eligible student-athletes are participating and reduce the resources institutions will be spending in this area. Thus, there is a need to discuss what, if any, institutional responsibility there will be if it is later determined that additional information is available and the status of the student-athlete has changed. In that same regard, there is a need to establish a process for determining if ethical conduct violations occur specific to the information prospective student-athletes are providing. Further, the committee will continue discussions regarding how it should handle cases where the student-athlete is determined to have provided false and misleading information, and thus, has an ethical conduct violation.

History:

May 31, 2005 Submit; Submitted for consideration.

Jul 18, 2005 Management Council sponsored legislation.

Aug 17, 2005 Women's Basketball Issues Committee, Recommends Approval; See position statement.

Sep 08, 2005 Student-Athlete Reinstatement Committee, Recommends Approval; See position statement.

Sep 09, 2005 Academics/Eligibility/Compliance Cabinet, Recommends Defeat; The cabinet unanimously opposes Proposal No. 2005-37 as written. The cabinet is overwhelmingly supportive of establishing an amateurism clearinghouse. However, due to concerns related to the complexity of the endeavor, the large volume

of student-athletes seeking certification and the quickly approaching fall National Letter of Intent signing period, the cabinet encourages the Management Council to modify the effective date to August 1, 2007, for all student-athletes initially enrolling at a Division I institution in the Fall 2007 and thereafter. The cabinet would support this proposal if modified. In the event the Management Council does not support the suggested modification, the cabinet shall sponsor an alternative proposal. The cabinet agrees that a centralized amateurism clearinghouse would assist in maintaining competitive equity in recruiting and promoting student-athlete well-being. A centralized clearinghouse would ensure that consistent information is gathered for each prospective student-athlete so no institution has an advantage over another based on available resources. In addition, a delayed effective date would allow the NCAA staff to conduct a pilot program and provide comprehensive education to prospective student-athletes and member institutions.

Oct 17, 2005 Management Council modified the effective date to August 1, 2006, for all final certifications for student-athletes initially enrolling at a Division I institution on or after August 1, 2007.

NO. 2005-64-A AMATEURISM — PROMOTIONAL ACTIVITIES — MEDIA ACTIVITIES

Intent: To remove the 30-mile radius limitation for the receipt of actual and necessary expenses by a student-athlete for appearances or participation in media activities related to intercollegiate athletics that occur during the playing season; further, to specify that a student-athlete participating in such activities may not miss class.

A. **Bylaws:** Amend 12.5.3, page 82, as follows:

"12.5.3 Media Activities.

"(a) During the Playing Season. During the playing season, a student-athlete may appear on local radio and television programs (e.g., coaches shows) or engage in writing projects when the student-athlete's appearance or participation is related in any way to athletics ability or prestige, provided the student-athlete does not receive any remuneration for the appearance or participation in the activity. The student-athlete shall not make any endorsement, expressed or implied, of any commercial product or service. The student-athlete may, however, receive *legitimate and normal* **actual and necessary** expenses directly related to the appearance or participation in the activity, *provided it occurs within a 30-mile radius of the institution's main campus.* **and** *t*The institution *also* may provide such expenses for a student-athlete to appear on radio or television in the general locale of an institution's away-from-home competition. **A student-athlete participating in media activities during the playing season may not miss class, except for class time missed in conjunction with away-from-home competition.**"

SUPPLEMENT NO. 14
DI Amateurism Cabinet 9/09

President's Report

An Update from NCAA President Myles Brand

National Collegiate Athletic Association
P.O. Box 6222
Indianapolis, Indiana 46206
September 2009

Greetings from Indianapolis.

I trust the summer months treated you well and that you are exhilarated by the start of another academic year. Here's hoping that it is a special one for all of you.

During the summer break an issue arose in the media regarding college basketball that stirred the public pot. I want to use this report to clarify that issue – and to suggest an alternative.

According to scores of media reports over the last three months, the NBA rule that a young man must be out of high school a year and at least 19 years old to enter its draft – termed by most as the "one-and-done rule" – is the ruination of college basketball. Others decry it as a violation of some sacred right to professionalize oneself regardless of whether one is ready to do so.

Despite the dire warnings of the conspiracy theorists, this is the NBA's rule; not the NCAA's rule. It is the result of a collective bargaining agreement between the NBA and its players association (otherwise the rule likely would be illegal). The NCAA neither had nor has any role to play in either the original creation or any future amendment of the rule.

Other than all the articles written, it has little impact on the college game.

"But wait," shout the naysayers. "What about the fact that the rule guarantees there will be basketball players – student-athletes – who have no intention of being students and even stop going to classes their second semester? And what about the fact that some may cheat to become eligible for their required one year?"

The problem with most of the media reports is that they focus on the same two or three examples and fail to point out that the number of "one-and-doners" is no more than a handful in any one year.

To be honest, the one-and-done rule is not perfect. It creates a few examples of disingenuous matriculation on the part of young men who would rather have bypassed college to play basketball at a professional level. But for the life of me, I can't see that the rule has increased the number of such examples.

The overwhelming majority of male college basketball players who yearn to play at the NBA level realize the college game will improve their chances of being successful as professional players. Most, but not all, will stay until they have their degree (although increasingly they return to get it), but we don't find fault with musicians who leave early for "the pros" or entrepreneurs who forgo a degree for the fortunes of a new business enterprise.

I would prefer that all who enter college stay to earn a degree or return to do so. As an educator for more than 40 years, I'm convinced they will be happier, be more productive, and be better citizens if they do. But not all will...whether they are student-athletes or not.

And it should be noted that there are other opportunities for those elite few basketball standouts who simply do not want to go to college. They can take the European route, or they can enter the NBA's developmental league. They should seriously consider those alternatives.

And as for the cheaters?

Well, they're cheaters. Do we really think the one-and-done rule made them that way?

Let's be clear on a few points:

- NBA Commissioner David Stern has said clearly that the rule is a business decision on the part of the NBA. The league no longer wants to risk large bonuses on high school graduates who may or may not be ready for professional basketball.
- The players association may have seen that there is more salary money to distribute to the proven talent if less is spent on speculation.
- And even though the NCAA has no dog in this fight, I have been clear that I like the fact the rule reminds most high school boys that they can't just write off their education. The rule tends to keep the heads of a larger number of young basketball athletes in their books long enough at least to prepare them for a potential college opportunity.

What I would like even more is an NBA rule (Did I mention that only the NBA and its players association, not the NCAA, can amend the rule?) that requires two years out of high school before entering the draft. In my mind, it would improve the situation for the college game and enhance the business benefits for the NBA.

The marketability of the stars would be increased in that they would be better known before beginning their

professional careers. They would also be further along in their physical and skill development. Both are good things for the NBA.

From the college perspective, there are clear advantages. Even if players leave after a year and a half, it is likely they would have attended two summer sessions (one before the start of their freshman year to address any deficiencies and one between their freshman and sophomore years). That's five semesters and a lot further down the road than the one-and-done allows.

It would also mean that high school basketball athletes would come to college much better prepared, and those who simply do not want the college experience may more seriously consider other opportunities.

To be sure, a two-year rule will not resolve all the problems, even though it is an improvement. The recruiting environment will not change simply by moving to a 20-year-old age rule. To fix that, and related issues, the NCAA will need to strongly enhance its enforcement.

Third parties will still hang around programs, perhaps for longer periods. The trouble that such parties can get young athletes – and colleges and universities – into is not to be taken lightly. Enforcement, including at state and federal levels, is still the answer.

I have no idea how the next round of collective bargaining between the NBA and the players association will go. The age-limit rule is in their hands. I am not as opposed to the one-year rule as many others are. There are some disadvantages, but there are also some clear advantages.

A two-year limit makes more sense to me. It does better what the one-year rule was intended to do from both the NBA and collegiate perspectives.

Of one thing I am certain regardless of what those two parties do.

It will not mean the demise of civilization, even though the pundits say the sky is falling.

Best regards,

Myles Brand

Basketball: Rule change could help foreign players gain eligibility

By Lee Barfknecht
WORLD-HERALD Bureau
« Sports

LINCOLN — Help from the NCAA may be on the way for foreign athletes who play on professional club teams in their home countries but aren't paid.

They could gain immediate eligibility as freshmen at U.S. universities if proposed legislation passes in August 2010.

Unfortunately for two basketball players at Nebraska and one from Iowa State, the NCAA bylaw change is a couple of years too late.

Christopher Niemann of NU and Lucca Staiger of ISU didn't earn a dime of profit from playing on a professional club team in Germany. Club teams are popular there because formal high school basketball doesn't exist.

But since other players on that team were paid more than basic expenses, Niemann and Staiger have had to sit out a year and lose a season of eligibility.

Incoming Nebraska recruit Christian Standhardinger from Germany is appealing the same issue now to try to gain eligibility in August.

The group sponsoring the new legislation is the NCAA Division I Amateurism Cabinet. The chairman is Mike Rogers, faculty representative at Baylor.

The veteran law professor came up with the term "vicarious professionalism" to label the quandary many foreign athletes are in.

"There's a growing consensus that vicarious professionalism is unfair," Rogers said from Waco, Texas. "In our legal system, the general rule is that each person is responsible for his own actions, and not other people's actions.

"That should apply to NCAA legislation as well."

Nebraska basketball coach Doc Sadler heartily seconds that idea, saying: "That's the same question I've been asking all along."

Sadler has broad experience with foreign athletes from Europe, South America, Central America and the Caribbean during various coaching stops. He sees no value is throwing up roadblocks for motivated overseas athletes.

"The one thing you notice about nearly every one of them," Sadler said, "is that they are here for the right reasons.

"They want to participate in athletics. But at the same time, education is a priority. They make a huge commitment to come over here, and they want to get an American diploma."

The presence of foreign athletes also increases diversity at places like NU.

"And we know Chancellor (Harvey) Perlman has said that is something he promotes," Sadler said.

The eligibility case of Standhardinger, a 6-8 wing player considered a key piece of Sadler's recruiting class, now rests with the NCAA Clearinghouse.

Can the fact that a bylaw has been proposed to end vicarious professionalism in the future help Standhardinger now?

"I don't know," Rogers said. "But I'm sure a lot of people will be citing our legislation to try."

Standhardinger has drawn heavy pro interest from European teams. But he hasn't ruled out coming to Nebraska and sitting out a year if necessary, Sadler said.

"Christian wants to go to school, and his mother wants him to go to school," the coach said. "But it all rests with the clearinghouse now."

The Amateurism Committee's bylaw drafted for the 2009-10 NCAA legislative cycle would "permit an individual prior to initial full-time collegiate enrollment to engage in outside competition with a professional athletics team without jeopardizing intercollegiate eligibility."

The lone condition: those athletes receive nothing more than actual expenses to compete on that team.

One NCAA official says documenting vicarious professionalism cases is among the staff's most difficult and time-consuming work.

Michael Mangarelli, the NCAA's associate director of amateurism certification, said current legislation requires that every club team be analyzed every year to see if anyone is paid beyond expenses.

"Most of the kids (we are looking at) are not making the team professional — it's a teammate," Mangarelli told the NCAA News. "Most people would agree that's what we should be looking at — the individual prospective student-athlete, not at third-party teammates."

Coaches in swimming, tennis, golf, wrestling and volleyball also are watching this legislation closely.

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College football powers move to limit eBay-bound autographs

Andy Gardiner
USA TODAY
July 16, 2009

Fan-appreciation days that include autograph sessions have become such a popular marketing event for college football programs that several prominent schools now limit what fans may offer up to players to sign.

Defending national champion Florida will hold its annual fan day Aug. 16 and expects up to 5,000 Gators supporters to meet with players at the basketball arena. Fans will be given a team poster to be autographed but will not be allowed to bring in outside items, a practice the school has followed for almost a decade.

"Fans used to bring in all sorts of stuff to be signed, from balls to helmets and jerseys. The next day it would appear for sale on eBay," said Jamie McCloskey, Florida's senior associate athletics director for compliance. "We've had fans complain, and for good reasons, but entrepreneurs were abusing the opportunity."

On Wednesday just under 300 items were listed for sale on eBay connected with Gators quarterback Tim Tebow, the 2007 Heisman Trophy winner who is a senior this season. An autographed jersey was listed for $625.

"These things didn't come from our fan days," McCloskey said. "But people come up after games, after practices, in public. Tim is an obliging guy so it becomes a never-ending struggle."

Georgia holds fans to a maximum of two items at fan day and encourages players to personalize each autograph, which cuts into its resale value. The eBay factor led Oklahoma, which returns 2008 Heisman winning quarterback Sam Bradford, to limit fans to one item at its appreciation day. Oklahoma also has discussed going to a plan such as Florida's and providing a poster or picture to fans to be autographed.

"Enforcement is difficult but that doesn't absolve us (from trying to deal with it)," said OU sports information director Kenny Mossman. "Beyond the rules, it's the taking advantage of players that we'd like to stop."

NCAA rules allow for athlete autograph sessions, said spokeswoman Stacey Osburn. "But it could become an issue for the university if the signed item is sold for profit," she said in an e-mail.

Southern California and BYU are among schools that allow their fans to bring whatever they wish to the sessions and have no limit on numbers. And then there is Ohio State, which discontinued its fan-appreciation day two years ago because the crowds became so large not everyone was able to work through the autograph lines.

"We used to hold it before an open practice but it built up over the years to where there were just too many people," said Buckeyes sports information director Shelly Poe. "It was a good deed that kind of backfired."

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Michael McCann>SPORTS LAW

ARCHIVED STORIES

NCAA faces unspecified damages, changes in latest anti-trust case

Story Highlights

Ed O'Bannon is suing the NCAA over use of former student-athletes identities

These identities were used in various business ventures, including video games

If O'Bannon wins, there will be substantial effects on the NCAA and athletes

Should athletes whose college days are long behind them be paid when the NCAA licenses their images and likenesses? Should they be able to negotiate their own licensing deals with television networks, video game companies and various businesses that use those same images and likenesses?

According to former UCLA basketball star **Ed O'Bannon** and a class of thousands of other former men's basketball and football players, the answer to both questions is yes.

On Tuesday, O'Bannon filed a class action complaint in the U.S. District Court for the Northern District of California seeking unspecified monetary damages for the NCAA's use and license of former student-athletes' identifies in various commercial ventures. Those ventures include DVDs commemorating championship seasons, broadcasts of old games on *ESPN Classic* and "classic teams" available to be played on EA's NCAA Basketball video game. The NCAA bars current and former student-athletes from receiving compensation for NCAA-licensed products, which comprise part of a $4 billion collegiate-licensed industry.

To be clear, current NCAA players are not part of O'Bannon v. NCAA. The class of plaintiffs only includes former NCAA men's basketball and football players whose images and likenesses have been commercially licensed by the NCAA, and specifically its official licensing representative, Collegiate Licensing Company. A victory or favorable settlement, however, would be poised to financially benefit current players when they leave college. In fact, O'Bannon requests that a constructive trust be established for any resulting damages or compensation. The trust would be available to current players upon leaving college. A victory would also compel changes in the way the NCAA interacts with current and prospective student-athletes.

O'Bannon v. NCAA stems from a series of documents Division I student-athletes are required to sign as part of their participation in college sports. Form 08-3a (the "Student-Athlete" statement) is one such document. Among other conditions, it specifies, "You authorize the NCAA . . . to use your name or picture to generally promote NCAA championships or other NCAA events, activities or programs." By signing the statement, student-athletes relinquish in perpetuity all future rights in the NCAA's licensing of their images and likenesses. O'Bannon claims that student-athletes -- some of whom are younger than 18 -- effectively have no choice but to sign, since they would otherwise be deemed ineligible to play and would risk losing their athletic scholarships.

In the NCAA's view, however, these documents promote the NCAA's core mission: the integration of intercollegiate athletics into higher education and the promotion of student-athletes' educational experiences. Along those lines, as a voluntary organization comprised primarily of colleges and universities, the NCAA tends to frown upon professional and other remunerative endeavors pursued by student-athletes.

Indeed, if student-athletes were paid salaries or received income through endorsement or licensing deals, they may begin to resemble professional athletes more than college students. The professionalization of student-athletes would frustrate the NCAA's focus on amateurism, possibly making it more difficult for schools to comply with Title IX, a federal law that

commands gender equity in sports. Professionalization could also create economic divisions among student-athletes on the basis of their commercial appeal. Student-athletes' exposure to professional opportunities might also lead to exploitation by unsavory businesspersons, whom colleges and universities not want on their campuses or near their student bodies.

Some commentators do not find the NCAA's concerns persuasive. Attorney **Alan Milstein** of Sherman, Silverstein, Kohl, Rose & Podolsky argues, "If the NCAA genuinely wanted to keep the college game pure, it wouldn't sell any images or likenesses. Plus, compare how the NCAA treats student-athletes with how colleges and universities treat students who are professional actors or musicians -- they, unlike student-athletes, can keep their earnings without jeopardizing their scholarships. It is completely unfair for student-athletes to be treated differently."

Whether the NCAA's concerns are meritorious, O'Bannon argues, those concerns would not seem applicable to commercial opportunities for former student-athletes. In fact, some of those former student-athletes are decades removed from their college days and possess substantial business acumen. Therein lies the unique twist of O'Bannon v. NCAA: it is strictly about compensation for former student-athletes, not current ones.

There are two core areas of law implicated by O'Bannon v. NCAA.

First, by requiring student-athletes to forgo their identity rights in perpetuity, the NCAA has allegedly restrained trade in violation of the Sherman Act, a core source of federal antitrust law. Here's why: student-athletes, but for their authorization of the NCAA to license their images and likenesses, would be able to negotiate their own licensing deals after leaving college. If they could do so, more licenses would be sold, which would theoretically produce a more competitive market for those licenses. A more competitive market normally means more choices and better prices for consumers. For example, if former student-athletes could negotiate their own licensing deals, multiple video game publishers could publish games featuring ex-players. More games could enhance technological innovation and lower prices for video game consumers.

Second, according to the plaintiffs, the NCAA has deprived them of their "right of publicity." The right of publicity refers to the property interest of a person's name or likeness, i.e. one's image, voice or even signature. Last year, when explaining why the NCAA has refrained from suing CBS over its use of player information in its fantasy sports game on *CBS Sportsline.com*, NCAA officials acknowledged that players' rights of publicity belong to the players, and not to the NCAA.

The NCAA, however, will likely argue that by freely signing the Student-Athlete statement and similar documents, and by accepting free tuition, room, board, and other benefits as part of their athletic scholarship, student-athletes forgo any potential antitrust injury and also agree to not profit off of whatever property rights they might otherwise enjoy. The NCAA will probably also contend that under "Rule of Reason" analysis, which governs many claims under Section 1 of the Sherman Act, the policies O'Bannon challenges are more pro-competitive than anti-competitive. If so, the NCAA would likely defeat O'Bannon's antitrust claims.

In assessing O'Bannon's claims, a court will consider the extent to which student-athletes possess a real "choice" when presented with the Student-Athlete statement and similar documents. On that front, O'Bannon appears emboldened by NCAA policies on student-athletes' access to legal counsel. According to O'Bannon, neither NCAA officials nor college athletic officials advise student-athletes that they can seek legal advice in connection with the release of future compensation rights. Particularly given the lack of "life experience" of most incoming student-athletes, such a policy may be viewed as arguably exploitative and also one that creates a disparity in bargaining power.

Recent case law may bolster O'Bannon. In Oliver v. NCAA, an Ohio State court earlier this year held that an NCAA bylaw that prohibited a lawyer from being present during negotiations between a drafted high school baseball player and a Major League Baseball team violated public policy. The case is currently under appeal.

The stakes of O'Bannon v. NCAA are enormous. If O'Bannon and former student-athletes prevail or receive a favorable settlement, the NCAA, along with its member conferences and schools, could be required to pay tens of millions, if not hundreds of millions, of dollars in damages -- particularly since damages are trebled under federal antitrust law. The marketplace for goods may change as well, with potentially more competition over the identities and likenesses of former college stars.

A victory would also necessitate substantial changes in the relationship between the NCAA and student-athletes. Namely, the NCAA could be required to advise student-athletes of the importance of legal counsel and of ways in which student-athletes can obtain counsel.

Proponents of such an outcome would likely hail the creation of a more equitable bargaining relationship between student-athletes and the NCAA. Critics, in turn, would likely bemoan a more litigious experience for both student-athletes and athletic department officials. They might also worry about diminished NCAA protection of student-athletes, with swindlers and charlatans potentially having easier access to student-athletes as they transition into the real world.

Michael McCann is a law professor at Vermont Law School and the distinguished visiting Hall of Fame Professor of Law at Mississippi College School of Law. He is a former chair of the Association of American Law Schools' Section on Sports and the Law.

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August 31, 2009

The Career Path to Pro Tennis Often Passes High School By

By DAVID V. JOHNSON

Roger Smith sat down Dennis Mkrtchian courtside after practice last December to discuss his first significant international junior tennis tournament, in which he lost to a British player with superior experience and training.

"You really need to start thinking about home schooling," Smith, a coach for the United States Tennis Association, told Mkrtchian, 15. "You have a lot of potential, but the problem of going to a strict school is that you're going to fall behind."

In February, Mkrtchian left school to spend his weekdays at the U.S.T.A. training center in Carson, Calif. While his former classmates were finishing the spring semester, he played three minor league professional tournaments and represented the United States in the Junior Davis Cup.

"It makes me feel good," he said about donning the red, white and blue warm-up.

American junior tennis has had a major change in the last five years. Aspiring pros now commonly abandon regular school for home or online educational programs. Although alternative schooling is not new to junior athletics, tennis is perhaps the only sport whose full participation requires it because of year-round competition and travel.

Smith persuaded Mkrtchian and three others to join a special U.S.T.A. training program.

"It's got to be a six-hour day," Smith said. "It's normal for foreigners."

Marcos Giron, then 15, was convinced after hearing about Roger Federer's ambitious junior tournament schedule. But Giron was considering the option for another reason: his American rivals were doing it.

"I felt I was a little held back," said Giron, who is ranked eighth nationally for his age and will play in his first junior United States Open this week. "All these other guys that I would play against were doing home schooling and training all the time."

His father, Andres, a physician in Thousand Oaks, Calif., said he had preferred that Marcos have a complete education. "But it became clear there were other kids who were being exposed to bigger-level tournaments," Giron said. "That seemed to be a hindrance to his competitiveness." Giron said he did not want his son to live with unresolved questions about his tennis potential.

Marcos Giron and Mkrtchian enrolled in independent-study programs offered by their school districts. When in town, they meet with their teachers once a week to collect and submit homework.

Julia Elbaba of Oyster Bay, N.Y., found that her local high school would not accommodate her training and travel schedule. It even insisted on physical education classes, even though she was ranked fourth nationally at 14.

Elbaba enrolled in Laurel Springs School, a college preparatory distance-learning academy in Ojai, Calif. Known for educating actors and Olympic athletes, the school now has more than 300 tennis players. Elbaba studies at home, follows an online curriculum tailored to her schedule and contacts her teachers remotely.

Laurel Springs has structural changes in the junior tennis circuit to thank. The two tennis governing bodies, the U.S.T.A. and the International Tennis Federation, have recently moved to professionalize the junior circuit in ways that have encouraged greater participation.

In 2004, the U.S.T.A. enacted a professional ranking system that awarded points for advancing through rounds in tournaments. The larger the number of competitions a player enters, the greater his opportunity to accrue points and improve his ranking. Participation has skyrocketed.

"That was one of the primary goals," said Timon Corwin, the U.S.T.A.'s senior director of junior competition.

In the past decade, the organization has more than doubled its number of national tournaments to match demand.

Americans who aspire to become the world's best seek to play the Junior Grand Slam tournaments, which used to award automatic entries to the eight best American players. But in 2003, the junior majors instead began using the International Tennis Federation's world junior ranking, also based on points per round, as its criterion of acceptance. The international federation offers tournaments in the United States and 120 other countries that overlap the U.S.T.A. schedule.

Consequently, top American teenagers like Atlanta's Jordan Cox, who was a finalist at his first Junior Wimbledon last July and is entered in the junior United States Open, must compete internationally. A student at Laurel Springs and a player at the IMG Bollettieri Tennis Academy in Florida, Cox began touring globally at 14, as did his older brother Bradley, a junior at Kentucky.

"My friends in the neighborhood freaked out," Julie Cox said of her son's travels. "Oh, my God, he's 14 traveling by himself to all these places."

An immigrant from Zimbabwe, Julie Cox harbors some regret that Jordan missed out on American high school. "The Friday night football, the prom — I think it's an awesome experience," she said.

Pat Harrison, a coach at the Bollettieri Academy and the father of two American prodigies, Ryan, 17, and Christian, 15, does not seem to share her worries.

"You get a lot of parents saying they have to go to school to mature socially," Harrison said. "But my kids have had no problems with social stuff. How much social stuff are you really doing in school?"

Harrison said home schooling was best suited for children with professional aspirations, the self-discipline to do homework and the right parental monitoring. His wife, Suzie, a former teacher, oversees their sons' online education. The boys have decided to bypass college for the pros.

"You go to college to get a good education so that you can get a good-paying job," he said. "Well, my kids have already signed with an agent. They know what their job is."

Richard Cohen says home-schooling was worth it even if his daughter, Julia, does not succeed professionally.

She left the Episcopal Academy near Philadelphia for Laurel Springs so that she could compete in international junior tennis. She reached fourth in the world before accepting a scholarship to Miami.

"She played 14 junior slams, traveled to 43 different countries, trained in Mexico and speaks Spanish fluently," her father said.

But burnout is a danger. In 2007, Roger Smith persuaded Spencer Simon's parents to send their son, a national champion at 14, across country to the U.S.T.A.'s Training Center in Boca Raton, Fla. A year later, he had had enough.

“He needed more of a real life, a typical American teenager life, with school and friends,” said Larry Mousouris, his longtime coach in California.

Simon now balances tennis with classes at Santa Barbara High School and ample socializing. He has finally regained his previous winning form, his parents say.

“Having a better support network — friends, school — makes him work harder,” said his father, Brad.

When families ask Darren Potkey for advice, he asks whether tennis is the only reason they are considering home schooling.

“That’s a red flag for me,” said Potkey, the manager of junior competition for the U.S.T.A.’s Southern California section. “You’re basically now putting it out there for everyone to see that tennis is the No. 1 thing. And if it doesn’t work out, that’s a lot of pressure on that particular young person.”

Barry Horowitz, who runs an after-school tennis academy in Los Angeles, questions whether even prodigies should be home-schooled. Attending brick-and-mortar schools, he says, gives his students, like the recent No. 1 American Ryan Thatcher, an edge.

“I feel like they have tennis in perspective, and so they’re able to compete in a better place,” he said. “The kids that home-school are putting all their eggs in one basket.”