REPORT OF THE
NCAA DIVISION I AMATEURISM CABINET
FEBRUARY 17-18, 2011, MEETING

***KEY ITEMS*.**

1. **Amendments to the Legislative Proposal to Revise the Regulations Related to Use of a Student-Athlete's Name or Likeness in Promotional Activities.** The NCAA Division I Amateurism Cabinet sponsored three amendments-to-amendments related to the use of a student-athlete's name or likeness in promotions, advertisements and media activities. (NCAA Proposal No. 2010-26).

2. **Agent/Advisor Discussion**. The cabinet continued its comprehensive review of the agent/advisor issue. Specifically, the cabinet focused on (1) broadening the current definition of an agent; (2) creating a national registration program; and (3) creating a national sports counseling panel.

***ACTION ITEMS*.**

1. **Legislative Items.**

   a. **Request for Noncontroversial Legislation to permit a prospective student-athlete enrolled at a non-NCAA institution to accept up to actual and necessary expenses in the form of prize money from the sponsor of an open event provided the competition occurs outside the playing and practice season and during the summer vacation period.**

      (1) Recommendation. The Division I Amateurism Cabinet recommends the NCAA Division I Legislative Council adopt noncontroversial legislation to permit a prospective student-athlete enrolled at a non-NCAA institution to accept up to actual and necessary expenses in the form of prize money from the sponsor of an open event provided the competition occurs outside the playing and practice season and during the summer vacation period.

      (2) Effective Date. Immediate.

      (3) Rationale. In 1999, a legislative exception was adopted to allow an individual, prior to full-time collegiate enrollment, to accept up to actual and necessary expenses in the form of prize money from the sponsor of an open event. In 2009, a similar legislative exception was adopted for current NCAA student-athletes with the added restriction that the event must occur outside the playing season and during the summer vacation period. However, when the legislative exception was adopted for current NCAA student-athletes in 2009, it was not extended to prospective student-athletes who accept prize money while enrolled in a non-NCAA institution (e.g., two-year college, foreign institution, NAIA). Therefore, it remains a violation for a prospective student-athlete who, while enrolled in a non-NCAA institution, accepts prize money, even though the prize money is less than

actual and necessary expenses for the event and the event occurs during the summer vacation period. The cabinet notes that, based on the Division I Committee on Student-Athlete Reinstatement's May 2010 directive, the student-athlete reinstatement (SAR) staff currently provides relief to a prospective student-athlete who accepted prize money while enrolled in a non-NCAA institution provided the prize money did not exceed actual and necessary expenses and the competition in which the prospective student-athlete accepted the prize money occurred during the summer vacation period. It is the cabinet's position that a prospective student-athlete enrolled at a non-NCAA institution be afforded the same exception to the prize money legislation that a current NCAA student-athlete is afforded under current legislation. Therefore, the cabinet believes this concept should be extended to prospective student-athletes at non-NCAA institutions.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

2. Nonlegislative Items.

- None.

***INFORMATIONAL ITEMS*.**

1. Legislative Informational Items.

a. **Cabinet Sponsored Amendments-to-Amendments.**

(1) AMATEURISM -- PROMOTIONAL ACTIVITIES -- USE OF A STUDENT-ATHLETE'S NAME OR LIKENESS -- CO-SPONSORSHIP OF PROMOTIONAL ACTIVITIES -- CONSOLIDATION OF MEDIA ACTIVITIES.

(a) Intent. To amend Proposal No. 2010-26, to retain the current promotional activities legislation in all areas except as it relates to co-sponsorship of institutional, charitable, education or nonprofit promotions. The promotion must identify (e.g., via graphics, voice over, text) the commercial entity's affiliation with the institution, conference or noninstitutional charitable, educational or nonprofit agency (e.g., entity is the official sponsor of the institution or event). There must be no indication in the makeup, wording or action of the co-sponsorship that the student-athlete endorses or is directly promoting the use of a product or service of the commercial entity. Further, to eliminate the distinction in the media activities legislation between media

activities that occur during the playing season and those that occur outside the playing season.

(b) Effective Date. August 1, 2011.

(c) Rationale. Although the NCAA Task Force on Commercial Activity in Division I Intercollegiate Athletics recommended institutional autonomy and flexibility in developing relationships with commercial entities that benefit athletics programs, this amendment is intended to provide the membership with an option that is closer to the current legislation. This amendment maintains current restrictions related to commercial advertisements and the sale of institutional commercial items. However, the amendment would permit flexibility as it relates to co-sponsorship of institutional, charitable, education or nonprofit promotions, similar to the flexibility granted under the 2005 Board of Directors directive, which allowed for the application of the parameters of Proposal No. 2005-26 while the issues related to studied and resolved. In addition, this amendment retains the section of Proposal No. 2010-26 that would eliminate the legislative distinction between media activities involving student-athletes that occur during the playing season and those that occur outside the playing season. Such a distinction is unnecessary and has been the source of confusion regarding the application of the legislation.

(d) Estimated Budget Impact. None.

(e) Student-Athlete Impact. None.

(2) AMATEURISM -- PROMOTIONAL ACTIVITIES -- USE OF A STUDENT-ATHLETE'S NAME OR LIKENESS -- NO COMMERCIAL ADVERTISEMENTS OTHER THAN CONGRATULATORY.

(a) Intent. To amend Proposal No. 2010-26, to restrict commercial advertisements or promotions that include the names or likenesses of student-athletes to congratulatory advertisements only.

(b) Effective Date. August 1, 2011.

(c) Rationale. Although the NCAA Task Force on Commercial Activity in Division I Intercollegiate Athletics recommended institutional autonomy and flexibility in developing relationships with commercial entities that benefit athletics programs, this amendment is intended to provide the membership with another option to consider. This amendment maintains the current legislation as it relates to commercial advertisements or promotions.

Commercial advertisements would continue to be restricted to congratulatory advertisements. However, this amendment retains the elements of Proposal No. 2010-26 that would: (1) permit the expanded co-sponsorship of institutional, charitable, education or nonprofit promotions; (2) permit the sale of institutional commercial items to occur an any institutionally approved outlets; (3) permit commercial establishments to be co-sponsors of institutional, charitable, education or nonprofit promotions that occur at the location of such establishments; and (4) eliminate the distinction between media activities that occur during the playing season and those that occur outside the playing season.

(d) Estimated Budget Impact. None.

(e) Student-Athlete Impact. None.

(3) AMATEURISM -- PROMOTIONAL ACTIVITIES -- USE OF A STUDENT-ATHLETE'S NAME OR LIKENESS -- PRIMARY PURPOSE OF COMMERCIAL ADVERTISEMENT.

(a) Intent. To amend Proposal No. 2010-26, to specify that primary purpose of a commercial advertisement or promotion that includes the names or likenesses of student-athletes is to publicize the commercial entity's affiliation with the institution, conference or the NCAA.

(b) Effective Date. August 1, 2011.

(c) Rationale. This amendment clarifies that the primary purpose of any commercial advertisement or promotion that includes the name or likeness of a student-athlete must be to publicize the commercial entity's affiliation with the institution, conference or the NCAA, rather than to market or sell its products or services. The legislation would continue to provide flexibility for commercial entities to support intercollegiate athletics, but the amendment provides direction as to the focus of any commercial advertisements.

(d) Estimated Budget Impact. None.

(e) Student-Athlete Impact. None.

b. **Promotional Activities – Use of a Student-Athlete's Name or Likeness.** The cabinet reaffirmed its support of Proposal No. 2010-26 as written. However, the cabinet also understands the membership's concern for potential abuse based on the flexibility of the proposed legislation. Nevertheless, the cabinet recognizes an unquestionable need for some form of legislation to be adopted to achieve the balance in intercollegiate athletics

that is needed with regard to commercial activities and the use of student-athlete's names or likeness. Further, the cabinet notes the overriding concern of returning to the restrictive promotional activities legislation as written in the current NCAA Division I manual. Therefore, the cabinet supports the above-referenced amendments as reasonable options on the continuum between the current legislation and the Proposal No. 2010-26.

2. Nonlegislative Informational Items.

1. Agent/Advisor Discussion. The cabinet discussed ways in which agents enter the lives of prospective and enrolled student-athletes, and how they influence the decisions student-athletes ultimately make regarding professional career opportunities. The cabinet heard the agent prospective from NBPA and NFLPA certified agent, Mark Bartletein. Mr. Bartelstein provided his feedback on broadening the definition of an agent and the roles advisors/agents should or need to have with prospective and enrolled student-athletes. The following concepts were offered as a potential answer to address agent issues:

a. New Definition of an Agent. The cabinet reviewed a proposed definition of an agent that would broaden the scope to include outside third parties who have become affiliated with prospective or enrolled student-athletes. The cabinet expressed concern that the current draft may reach too far and may cause certain individuals to trigger agent status that the cabinet does not believe should.

b. Agent Contact Calendar. The cabinet reviewed a proposed agent contact calendar for the sport of football that would create permissible time periods for agent contact with student-athletes with remaining eligibility. There was concern expressed about the enforceability of such a calendar by either the NCAA or the National Football League Players Association (NFLPA). The cabinet did not support the idea of the agent contact calendar.

c. National Agent Registration Program. The cabinet reviewed a proposed national agent registration program that could serve as a resource for institutions and student-athletes that would assist in the agent/advisor education process. The cabinet was supportive of such a program, noting that continued discussion with various governance bodies and the membership will be necessary.

2. Earmarked Fundraised Dollars for Athletics Participation. The cabinet reviewed a draft legislative concept to address issues related to prospective student-athletes accepting earmarked and /or fundraised dollars for athletics participation from outside sources. The cabinet supports the overall concept; however, a few cabinet members continued to express concerns related to third parties providing funding in sports such as basketball that would be contrary to current amateurism and recruiting legislation. The cabinet members plan to seek feedback from their respective conference offices as to how to address these concerns and prepare it for discussion at its next in-person meeting.

3. **Eligibility Center Update**. The cabinet received an update from the Eligibility Center amateurism certification staff (ACP) related to the 2010-11 certification season. The ACP staff shared with the cabinet progress made in key performance areas (e.g., average case duration of cases placed under manual review reduced from 45 to 28 days) as well as trends related to penalties. The ACP also reviewed a sample of one of its sports structure educational resources. These resources are both sport-specific and country-specific and are designed to provide information on foreign sports leagues and organizations to assist the membership in making informed recruiting decisions.

   Finally, the ACP staff presented information submitted to the cabinet by the United States Tennis Association (USTA) and the Intercollegiate Tennis Association (ITA). Those organizations requested the cabinet revisit the issue of prize money earned prior to full-time collegiate enrollment in the sport of tennis. Their position is that the expenses incurred by the majority of prospective tennis student-athletes vastly outweigh prize monies earned. Accordingly, the USTA and ITA have proposed allowing prospective student-athletes to earn up to $10,000 in prize money without jeopardizing their NCAA eligibility. As an alternative, the cabinet discussed the option of conducting the expenses vs. prize money analysis in a manner other than on an event-by-event basis. The cabinet agreed to solicit feedback on the issue from their conference members and to have further discussions at its June meeting.

Cabinet Chair: *Mike Rogers, Baylor University, Big 12*
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