A G E N D A

National Collegiate Athletic Association
Division I Board of Directors

NCAA National Office
Indianapolis, Indiana

August 7, 2008

1. **Opening remarks.**

2. Minutes of the April 24 Board of Directors meeting. [Supplement No. 1] [**Anticipated Action Item]**

3. Report of April 24 meeting of the NCAA Executive Committee. [Supplement No. 2] [No action anticipated.]

4. NCAA president's report. [No action anticipated.]

5. Litigation update. [Supplement No. 3 will be distributed at the meeting.] [No action anticipated.]

6. Governmental relations report. [Supplement No. 4] [No action anticipated.]

7. Report of the Division I Presidential Advisory Group. [Supplement No. 5. An addendum will be distributed at the meeting.] [No action anticipated – report by Bruce Grube, chair.]

8. Overview of the preliminary efforts of the Basketball Academic Enhancement Group. [Supplement No. 6] [No action anticipated.]

9. Overview of the preliminary efforts of the Football Academic Enhancement Group. [Supplement No. 7] [No action anticipated.]

10. Report of the Committee on Academic Performance (CAP)**.** [Supplement No. 8.– presentation by Walter Harrison, chair.] [**Possible Action Item]**

11. Update on the Division I governance transition process and report of the August 6, 2008, Division I Leadership Council. [Supplement No. 9. An addendum will be distributed at the meeting.] [No action anticipated.]

12. Legislative Issues. [**Anticipated Action Items.]**

    a. Membership override request regarding Proposal No. 2007-30-C. [Supplement No. 10]

    b. Suggested compromise with regard to Proposal No. 2007-109, which was tabled by the Board. [Supplement No. 11]

    c. Proposed modification to the composition of the Division I Football Issues Committee. [Supplement No. 12 will be provided at the meeting.] [Note: At the April 24, 2008, meeting, the Board examined Proposal No. 2008-5. The Board will receive another proposed concept to restructure the Football Issues Committee.]

13. Update on the Division I Task Force on Commercial Activity in Intercollegiate Athletics. [Supplement No. 13 – An addendum will be distributed at the meeting.] [No action anticipated.]

14. Report from the Oversight and Monitoring Group (OMG). [Supplement No. 14] **[Anticipated Action Item.]**

15. Report of the Executive Committee Subcommittee on Gender and Diversity Issues. [No action anticipated]

16. Other business.

17. Future meeting dates.

    a. October 30, 2008, National Office, Indianapolis, Indiana.

b. January 17, 2009, Washington D.C., held in conjunction with the NCAA Annual Convention.

c. April 30, 2009, National Office, Indianapolis, Indiana.d.August 6, 2009, National Office, Indianapolis, Indiana.

d. August 6, 2009, National Office, Indianapolis, Indiana.

e. October 29, 2009, National Office, Indianapolis, Indiana.

19. Adjournment.

MINUTES OF THE

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

DIVISION I BOARD OF DIRECTORS

NCAA National Office
Indianapolis, Indiana

April 24, 2008

Participants:

Michael Adams, University of Georgia, Southeastern Conference
Charles Bantz, Indiana University-Purdue University at Indianapolis, Summit League
James Barker, Clemson University, Atlantic Coast Conference (chair)
Frank Brogan, Florida Atlantic University, Sun Belt Conference
Robert Bruininks, University of Minnesota, Big Ten Conference
Daniel Curran, University of Dayton, Atlantic 10 Conference
Greg Dell'Omo, Robert Morris University, Northeast Conference, (alternate)
Gregory Geoffroy, Iowa State University, Big Twelve Conference
Bruce Grube, Georgia Southern University, Southern Conference
Shirley Raines, University of Memphis, Conference USA
Edward Ray, Oregon State University, Pacific-10 Conference
Sidney Ribeau, Bowling Green State University, Mid-American Conference
Steve Weber, San Diego State University, Mountain West Conference
Timothy White, University of Idaho, Western Athletic Conference
Nancy Zimpher, University of Cincinnati, Big East Conference
S. David Berst, NCAA
Myles Brand, NCAA
Beth DeBauche, NCAA, recording secretary
Bernard Franklin, NCAA

[NOTE: Unable to attend were Kevin Mullen, Siena College, Metro Atlantic Athletic Conference; Anthony DiGiorgio, Winthrop University, Big South Conference; and Thomas Powell, Mount St. Mary's University, Northeast Conference.]

Also in attendance were: William Beauchamp, University of Portland, as an oncoming member of the Division I Board of Directors and Jacqueline Campbell, Atlantic 10 Conference, as chair of the Division I Management Council.

NCAA staff members Erik Christianson, Elsa Cole, Julie Cromer, Diane Dickman, Lynn Holzman, Michelle Hosick, Jim Isch, Corey Jackson, Kevin Lennon, Steve Mallonee, Delise O'Meally, Tom Paskus, Todd Petr, David Price, Bill Regan, Wallace Renfro, Greg Shaheen, and Robert Vowels were also present during portions of the meeting.

The meeting was called to order at 8 a.m. by the chair, President Barker. All were present as noted above.

1. **Opening remarks.** James Barker welcomed the members and the alternate in attendance at the meeting.

2. **Executive Committee.** NCAA senior vice president Bernard Franklin provided a review of the committee's January 14, 2008 meeting along with a preview of the committee's April 24, 2008 meeting. Dr. Franklin was joined by Executive Committee staff liaison Delise O'Meally in providing this report.

3. **President's Report.** NCAA President Myles Brand provided his quarterly report to the Board of Directors. As part of his report, he mentioned the preliminary work of the Division I Task Force on Commercial Activity in Intercollegiate Athletics.

4. **Litigation Update.** Elsa Cole, general counsel, provided this report to the Board.

5. **Report of the Division I Presidential Advisory Group (PAG).** The Division I Presidential Advisory Group chair, Bruce Grube, provided an overview of the group's April 23 in-person meeting.

6. **Review of the April 14-15, 2008, Division I Management Council meeting.** Jackie Campbell, chair of the Division I Management Council, provided this report, which featured the Council's legislative actions.

7. **Review of the proposed FY 2008-09 and FY 2009-10 budget.** Ed Ray, chair of the Division I Budget Committee, presented the biannual budget for consideration by the Division I Board of Directors.

8. **Report of the Committee on Academic Performance (CAP).** Walter Harrison, as chair of the Committee on Academic Performance, presented the report of the committee's April 22, 2008, meeting. Additionally, Kevin Lennon, Todd Petr, Tom Paskus, Julie Cromer, Diane Dickman and Bill Regan of the NCAA staff were present to assist President Harrison in discussing the committee's work.

9. **Update from the Oversight and Monitoring Group (OMG).** Shirley Raines, chair of the Oversight and Monitoring Group, provided an update to the Board on the progress made

to date regarding the recommendations of the Presidential Task Force on the Future of Division I Intercollegiate Athletics.

10. **Report of the Executive Committee Subcommittee on Gender and Diversity Issues.** Sidney Ribeau, chair of the subcommittee, presented an overview regarding the work of that group.

11. **Adjournment**. President Barker thanked departing Board members Dan Curran and Steve Weber for their service to Division I. President Barker adjourned the meeting at 2:10 p.m.

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MINUTES OF THE

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

EXECUTIVE COMMITTEE

NCAA National Office
Indianapolis, Indiana

April 24, 2008

Participants:

Michael Adams, University of Georgia, chair
James Barker, Clemson University
Jacqueline Campbell, Atlantic 10 Conference
Debbie Chin, University of New Haven
Dan Curran, University of Dayton
John Fry, Franklin & Marshall College
Gregory Geoffroy, Iowa State University
Bruce Grube, Georgia Southern University
Stephen Jordan, Metropolitan State College of Denver
Del Malloy, Salve Regina University
Shirley Raines, University of Memphis
Edward Ray, Oregon State University
Sidney Ribeau, Bowling Green State University
Paul Trible, Christopher Newport University
Steve Weber, San Diego State University
Nancy Zimpher, University of Cincinnati
Myles Brand, NCAA
Bernard Franklin, NCAA
Delise O'Meally, NCAA, recording secretary

Anthony DiGiorgio, Winthrop University; Michael McFarland, College of the Holy Cross; and Eddie Moore, Virginia State University, were not able to participate.

Also in attendance were: Gary Brown, director of NCAA News; Erik Christianson, director of public and media relations; Elsa Cole, vice president of legal affairs/general counsel; Joni Comstock, senior vice president of championships; Dennis Cryder, senior vice president of branding and communications; Jim Isch, senior vice president of administration/chief financial officer; Corey Jackson, director of diversity and inclusion; Tom Jernstedt, executive vice president; Dave Klossner, director of health and safety; Kevin Lennon, vice president of membership services; Wallace Renfro, vice president and senior advisor to the NCAA president; Robert Vowels, vice

president of education services; Mary Wilfert, associate director of health and safety; Bob Williams, managing director of public and media relations; David Berst, Daniel Dutcher and Mike Racy, NCAA governance vice presidents; and Beth DeBauche, Leah Nilsson, and Terri Steeb, NCAA governance directors.

[Note: These minutes contain only actions taken (formal votes or stated "sense of the meeting") in accordance with NCAA policy regarding minutes of all Association entities. While certain items on the Committee's agenda were acted on at various times throughout the meeting, all final actions within a given topic are combined in these minutes for convenience of reference.]

The meeting was called to order at 3:05 p.m. by the chair, President Adams. All members were present as noted above.

1. Welcome and announcements. Adams recognized Curran, Weber and Campbell, whose terms of service are ending, for their commitment, service and leadership in advancing the ideals, values and goals of the NCAA. He also presented them with a service award.

2. Approval of January 14, 2008, meeting minutes.

   It was VOTED

   "To approve the NCAA Executive Committee minutes of the January 14, 2008, meeting with an amendment to the roster of participants."

3. NCAA President's report.

   a. World University Games. Brand called on Jernstedt to provide an update related to the World University Games. Jernstedt noted that U.S. International University Sports Federation, the official representative to the International University Sports Federation, previously had requested financial assistance for participation in the World University Games (Games). The Games, which occur biennially, offer the only opportunity for many student-athletes to compete in elite international competition. At the direction of the Executive Committee, the staff reviewed the request and has submitted for approval a three-year pilot program that provides a level of funding to be devoted exclusively to men's and women's basketball participation during the Games. If approved, the pilot program will be assessed after two years.

b. Historically Black Colleges and Universities (HBCU) video. Franklin provided an update on a session at the 2008 NCAA Convention that focused on the history and legacy of HBCUs. The session was well attended and chronicled the early development of intercollegiate athletics at HBCUs and the remarkable contributions those institutions have made to the college athletics landscape. Franklin shared a short documentary on HBCUs that was prepared specifically for this event.

c. Conflict of interest policy. Franklin informed the Committee of an internal task force that has been charged with reviewing overall conflict of interest policies, including those related to NCAA staff as well as committee members. He noted that the Committee would receive a more detailed report during its August meeting.

4. NCAA Executive Committee Finance Committee report.

a. Second quarter FY 2007-08 budget-to-actual. The Finance Committee reviewed the second quarter budget-to-actual statement and is satisfied that the Association is on target with its revenues and expenses. The NCAA has collected more than a third of its operating revenues, which is on track with the budget as compared to previous years. Overall expenses also are in line with the prior year.

b. Summary of reserve policies and net assets. A summary of reserve policies and net assets was reviewed in January and has been included in the Committee's meeting materials. The NCAA has approximately $270 million in unrestricted net assets.

c. FY 2008-09 and FY 2009-10 revenue and expense budget. In August 2007, the Committee approved the projected FY 2008-09 and FY 2009-10 revenues and expenses allocations to establish general parameters for the upcoming biennium budget process. Brand recommended Association-wide budget proposals to the Executive Committee Finance Committee, and the Committee also received recommendations from the other divisional budget committees for divisional budget requests. The following criteria were used to make Association-wide recommendations:

(1) Supports the strategic plan;

(2) Enriches the student-athlete experience;

(3) Supports current reform initiatives;

(4) Enhances the championships experience;

(5) Develops a more diverse and inclusive Association, or

(6) Enhances national office service levels.

d. FY 2008-09 and FY 2009-10 sources and uses budget projections.

(1) Television and marketing rights revenues increase by the CBS and ESPN contractual amounts – approximately eight percent.

(2) The largest recommended allocation, representing over 58 percent of the total uses, is the Division I revenue distribution. The recommended amount is in accordance with the agreement forged in 2000.

(3) The Collegiate Sport LLC was organized in May 2007; the NCAA is a sole member of the limited liability companies. These activities are budget neutral and will not have any budget implications on the NCAA operating budget.

(4) A substantial amount of the available resources has been allocated to reserves by Executive Committee Finance Committee and divisional budget committees. The rationale for these allocations is the uncertainty of future media rights increases and the reluctance to build the base budget during uncertain times. The reserves will be used to further diversify the Association's revenue streams or will be distributed at year-end in accordance with the practices for allocating year-end money.

e. FY 2008-09 and FY 2009-10 Executive Committee Finance Committee recommendations.

(1) FY 2008-09 and FY 2009-10 Association-wide recommendations.

The Finance Committee considered budget recommendations submitted by Brand, including the following:

(a) Diverse and inclusive Association. Programming is planned for diversity training, leadership for student-athletes of color, a football coaches' academy, women's leadership and life-work balance initiatives. Also, a three-year pilot program, funded at $100,000 per year, will be established to provide international competition

opportunities for men's and women's basketball players as part of the World University Games.

(b) Enhanced national office services. The national office is planning additional administrative support in key areas, including support for developing membership applications, increasing investigative coordination in enforcement, and expanding programming in education services.

(c) Maintain existing programs. These dollars are provided to maintain program levels at existing levels. A six-percent increase is needed for championships travel, a $5 increase for Division I championships per diem and some small increases for championship officials, representing a total of approximately $550,000. Nearly $1.9 million will be needed for legal and insurance cost increases, which are reflective of increased legal and settlement costs over the past few years. Approximately $2 million will be used to provide merit increases to the NCAA national office staff. Mandatory contractual increases of $700,000 need to be budgeted to fund expenses such as building maintenance, shipping and Association-wide drug testing. Approximately $1.1 million is necessary to backfill the interest earnings budget that was allocated to the quasi-endowment in 2004 by the Executive Committee.

(d) Protect and diversify Association revenue streams. Major allocations are planned for the youth basketball initiative that the Executive Committee has supported in the past. The $2 million will be used as part of the start-up funding needed to launch the program. Finally, over $900,000 in the first year of the biennium and nearly $2 million in the second year of the biennium will be allocated to the reserve and investment fund categories.

It was VOTED

"To approve the fiscal year 2008-2009 budget and the fiscal year 2009-2010 new initiatives."

f. Executive Committee Investment Subcommittee update.

The Executive Committee Investment Subcommittee met in Chicago last December to review fourth quarter performance, as well as annual performance. The Association's core operating reserve had an 8.1-percent return for calendar year

2007, while the Association's quasi-endowment reserve had a 6.6-percent return for calendar year 2007. The finance committee approved a global equity manager, Capital Research, to the quasi-endowment equity portfolio. Capital Research will provide another asset allocation strategy to the portfolio.

5. Report from Executive Committee working group on membership issues. The Committee received a report from Curran on the work of the NCAA Executive Committee working group on membership issues. Curran noted that the working group met March 31 and comes before the Committee with a recommendation that it not support the concept of creating a subdivision of Division III or a new division at this time. Additionally, the working group recommends that the Executive Committee terminate the charge of this group.

   Curran noted that the working group's primary charge was to study and oversee the development of structural models to address the growth and diversity within Division III, while also reviewing key membership issues in the other divisions. Over the past 15 months, the group has reviewed a significant amount of data and information regarding the pros and cons of creating either a subdivision or a new division to address current and future membership issues in Division III. At the 2008 Convention, the working group presented two models and engaged the Division III membership in roundtable discussions. A survey of the entire Division III membership also was conducted in February.

   Feedback received from the membership during the Convention, as well as through the survey instrument, overwhelmingly underscores a desire to maintain Division III and to focus on other ways to manage membership growth. The Division III working group has offered several recommendations through its governance structure to continue looking at ways of managing growth and diversity in Division III. The working group believes that this membership issue has been comprehensively studied, and, given the current climate in the membership, it is appropriate at this time to conclude its work. The Executive Committee supported the recommendation.

6. Litigation update. The Committee received a report from the NCAA general counsel regarding litigation and settlement actions.

7. NCAA Division I Board of Directors and Divisions II and III Presidents Councils reports.

   a. Division I Board of Directors. The Committee received an update on the actions of the Division I Board of Directors. These included the following:

(1) Committee on Infractions/Infractions Appeals Committee. Charged the staff with developing accountability measures for the Division I Committee on Infractions and Infractions Appeals Committee. It instructed the staff to report back to the Board of Directors once the measures are developed to ensure the proper level of oversight. The Board anticipates that, thereafter, it will receive annual reports from both committees.

(2) Legislative items. Received a report from the April 14 Division I Management Council meeting and considered 14 legislative items, which were remaining in the 2007-08 Division I legislative cycle. The Board adopted 12 of the proposals and defeated two proposals. In defeating the proposals, the Board noted both proposals sought to change legislation that had only been recently adopted.

(3) FY 2008-09 and FY 2009-2010 Division I budget. Approved the proposed FY 2008-09 and FY 2009-10 Division I budget, a proposed championships review and the expansion of the bracket for the Division I football championship to 20 in 2010.

(4) Committee on Academic Performance (CAP). Received a report of the April 21-22 CAP meeting and reviewed year four data. The Board noted that the data show real and significant results in all sports but men's basketball, which is improving but at a slower rate. It also learned that more than 4,000 student-athletes have returned to campus after leaving to earn a graduation bonus point.

(5) Basketball Academic Enhancement Group. Received an update on the ongoing work of the Basketball Academic Enhancement Group, which has been charged with identifying strategies for helping to improve the academic performance of men's basketball student-athletes, within the structure of academic reform. The Board members underscored their commitment to academic reform.

b. Division II Presidents Council. The Committee received an update on the actions of the Division II Presidents Council. These included the following:

(1) Division II Presidents meeting and game environment Web site launch. Met with the presidents and chancellors who chair the Division II conferences' governing boards Wednesday, April 23, to discuss Division II finances, game environments and presidential involvement. During the meeting, Nathan Mueller, Hardwick-Day, launched the Division II partial scholarship simulation model, which will provide assistance to current and

potential Division II member institutions when reviewing athletics scholarships programs. Additionally, Darren Treasure, CAI Performance Systems, and Creative Street Media Group launched the Division II Game Environment Web site, which will be housed at diicommunity.org, the same location as the Division II Community Engagement Web site.

The presidents and chancellors who attended the meeting affirmed the following statement related to game environment.

> *The Division II Presidents Council and representatives from Division II conference governing boards affirm that athletics events should reflect the values of higher education and the mission of each institution. Division II emphasizes learning and development in a personal setting. As chancellors and presidents, we are concerned about the uncivil behavior exhibited at college athletics contests and, thereby, pledge to work together to make respectful, family-friendly events a standard of the Division II experience.*

(2) Model Life Skills Resource. Endorsed the final draft of the Division II Model Life Skills Resource, which was developed by the NCAA governance interns. The publication was created for campus administrators in student affairs, academic affairs and athletics as a resource to assist institutions in developing and implementing a life skills program on campus; improve programs being offered; and integrate campus resources into student services and programming for student-athletes and student fans.

(3) Emergency legislation. Adopted emergency legislation to amend NCAA Bylaw 15.3.4.3 (financial aid – reduction or cancellation during period of award – reduction of cancellation not permitted – injury, illness or medical condition) to specify that institutional financial aid based in any degree on athletics ability may not be reduced or canceled during the period of the award because of an injury, illness or physical or mental condition.

(4) Vice-chair election. Elected Beverley Pitts, University of Indianapolis, as the next vice-chair of the Presidents Council, replacing Eddie Moore, whose term ends September 1. Dr. Pitts will serve a one-year term of office, with the option to seek a second term in 2009.

c. Division III Presidents Council. The Committee received an update on the actions of the Division III Presidents Council. These included the following:

(1) FY 2008-09 and 2009-10 Division III budget. Approved recommendations from the Division III Strategic Planning and Finance Committee for the two-year budget cycle beginning in fall 2008. The budget includes an increase in championships per diem and an increase in officials' per diem. It also includes funding for nonchampionships initiatives, including additional dollars for the Strategic Initiative Conference Grant Program and the Division III Ethnic Minority and Women's Internship Grant Program.

(2) Financial aid violations. Approved a plan recommended by the Division III Financial Aid Committee to move toward more punitive measures for violations of legislation discovered during financial aid reporting and reaffirmed the committee's role in recommending appropriate penalties in enforcement proceedings. The committee, which has encouraged penalties that are educational in nature during the first three years of the annual financial aid reporting process, could recommend such sanctions as public reprimands and loss of membership benefits and championships access in cases where violations are found.

(3) Legislative items. Agreed to sponsor two legislative proposals for the 2009 Convention. One would permit coaches to provide a workout program tailored to specific needs and limitations of an individual student-athlete (while continuing to prohibit coaches from conducting such workouts and reaffirming that the activity must be voluntary). The other would reinstate a requirement that an institution's team be charged with its once-in-three-years opportunity for a foreign tour if more than a limited number of student-athletes representing that institution participate on an outside team during a foreign tour.

(a) Membership issues. Engaged in a discussion of membership issues, including the following:

- Reviewed and discussed the membership survey results.

- Accepted the information from the Division III Working Group on Membership Issues that the working group should be dissolved based on the membership's expression of satisfaction with the current membership structure.

- Agreed to present the Division III Chancellor/Presidents Advisory Group with a white paper at its August meeting. The white paper should emphasize the importance of membership input, and especially presidential input, as the division considers the practical application of its philosophy statement in

light of membership growth. Membership survey results will serve as the basis on which to begin this conversation.

8. NCAA drug-testing results for 2005-06 and 2006-07. The Committee received a report regarding the overall drug-testing program and drug-testing results from 2005-06 and 2006-07. It noted that steroid use has decreased dramatically, possibly due to enhanced education, increased media and congressional focus on drug testing, as well as federal regulations. Stimulant positives are up, and street drug positives (marijuana) have increased in the last two years similar to the rate of increase by non-student-athletes. The Committee noted, however, that the overall rate of positive drug tests among student-athletes continues to fall below that of the general student body. Finally, the Committee noted that future NCAA drug-testing discussions include an ongoing review of human growth hormone testing, support for drug-testing research to better detect "designer" steroids and the development of more economic drug testing options.

It was VOTED

"To approve the drug-testing results for publication."

9. Association-wide committee meeting frequency requests. Pursuant to the Association's bylaws, the Committee is required to authorize exceptions for Association-wide committees to hold more than two meetings per year. Three of the nine Association-wide committees requested waivers: (1) the NCAA Committee on Women's Athletics; (2) the NCAA Minority Opportunities and Interests Committee; and (3) the NCAA Postgraduate Scholarship Committee.

It was VOTED

"To approve the requests from the committees for the 2008-09 and 2009-10 academic years."

10. NCAA Executive Committee Subcommittee on Gender and Diversity Issues. The Executive Committee Subcommittee on Gender and Diversity Issues report included updates from the Committee on Women's Athletics and the Minority Opportunities and Interests Committee. It also provided an update on the implementation of recommendations from the Diversity Leadership Strategic Planning Committee. The subcommittee reported it discussed a new initiative designed to recognize institutions for excellence in diversity

and inclusion. The Diversity in Athletics Award, which is administered by Texas A&M University in partnership with the NCAA, will recognize diversity excellence in several categories for all three divisions. The subcommittee also reviewed diversity demographics within the new Division I governance structure and noted that the diversity requirements were met and, in some areas, exceeded.

11. Future meetings. The Committee reviewed its future meetings schedule.

12. Adjournment. Adams adjourned the meeting at 4:45 p.m.

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CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGED

MEMORANDUM

August 7, 2008

TO: NCAA Division I Board of Directors
Divisions II and III Presidents Councils.

FROM: Elsa Kircher Cole, Vice President of Legal Affairs/General Counsel.

SUBJECT: Summary of Legal Activity.

The following is a summary of significant legal activity in which the NCAA is or has been involved since last reported in April 2008.

The NCAA is currently a defendant in 12 active cases. Two new cases were filed this quarter. Five cases were resolved favorably.

New Cases

Several applicants for tickets to the Division I Men's Final Four have filed a potential class-action lawsuit in federal court in Los Angeles. They claim the NCAA and Ticketmaster operate illegal lotteries to sell and distribute tickets to certain NCAA Division I championship tournaments in violation of federal RICO statutes and California and Indiana anti-gambling and consumer protection laws. Plaintiffs seek an order enjoining the NCAA from continuing the alleged illegal lotteries, and an award of civil penalties including treble damages, punitive damages, attorneys' fees and costs.

Andrew Oliver, a student-athlete at Oklahoma State University (OSU), was indefinitely suspended from playing on May 30, 2008. OSU suspended plaintiff for violation of amateur rules by allegedly allowing an attorney to be present at his home when a representative from the Minnesota Twins tendered a professional contract to him. In his amended complaint, filed in state court in Ohio but removed to federal court in Ohio, he claims breach of contract and tortious interference with contract by the NCAA in relation to that suspension. His former attorneys and OSU are also defendants in the amended lawsuit.

Resolutions

On July 22, 2008, after 12 days of trial, a jury returned a verdict in favor of the NCAA in the *Michael Bowers* initial-eligibility case, filed in 1997, in federal district court in New Jersey. The case alleged discrimination on the basis of handicap in the denial of initial-eligibility even though Bowers was

deficient in the number of core courses he had taken. Co-defendants Temple University and the University of Iowa, which allegedly stopped recruiting Bowers when his alleged learning disability was brought to their attention, settled before trial. The case was pursued by Bowers' mother as he died of a heroin overdose in 2002.

On August 5, 2008, the federal court in Los Angeles gave final approval to the settlement in the *White* cost-of-attendance class-action antitrust lawsuit.

On June 6, 2008, the Sixth Circuit Court of Appeals upheld the dismissal of former University of Kentucky men's football recruiting coach Claude Bassett's case against the NCAA. Bassett had made claims of conspiracy, fraud and violations of the antitrust laws in relation to his dismissal from his coaching position.

On January 11, 2008, the Alabama Supreme Court upheld the dismissal of a lawsuit brought by Mark Townsend, a truck driver, who complained that the NCAA was not showing the raising of the flag and playing the national anthem at the beginning of broadcasts of its sporting events or the marching band at half time, and that the NCAA was not consistent in its core course requirements K-12.

On August 5, 2008, the NCAA entered into a favorable settlement agreement to resolve the case brought by Michael Seabolt, a former men's soccer coach at West Virginia University (WVU). He had claimed that the NCAA had conspired with WVU to end his employment after he violated NCAA recruiting rules and that the NCAA was negligent in its investigation of that violation.

Recent Developments

On April 30, 2008, a decision was issued in the Ray Keller defamation matter, setting aside the $5 million jury verdict in favor of Keller and entering judgment instead in favor of the NCAA. Ray Keller has appealed that decision to the Alabama Supreme Court.

On July 8, 2008, Dan Maloney and Logan Ponce, plaintiffs in the Illinois mascot case, filed a petition for leave to appeal to the Illinois Supreme Court the May 1, 2008, Illinois appellate court order affirming the trial court's dismissal of this matter.

EKC:lv/pas

cc: Selected NCAA Staff Members.

NCAA GOVERNMENT RELATIONS REPORT
(June 2008)

1. Congressional Overview.

As the 110th Congress moves toward its conclusion, there are a number of legislative priorities that are currently under consideration. The reauthorization of the Higher Education Act recently received its seventh short-term extension to expire on July 31, 2008. Informal House-Senate negotiations have been underway since February, when the House passed its bill. Members of the Senate and House continue to work on a compromise to bring a final bill forward for a vote this year. On June 25, the House passed an AMT patch (H.R. 6275), which would provide 21 million families with relief from the alternative minimum tax if passed by the Senate before the end of this session. A bill updating the Federal Intelligence Surveillance Act and consideration of a mortgage relief bill will also be on the Senate's agenda when members return from the Fourth of July recess.

Additionally, Congressional committees continue to spend substantial time on sports related issues. These issues include: the use of steroids and drug testing programs by athletes at all levels, sports wagering on the Internet, the recent scandal involving an NBA referee, interest in the NFL's "spygate" controversy, the NFL's disability program for retired players, security at mass gatherings which include sports venues and a continued interest in NCAA policies that receive media attention.

Following a week-long Fourth of July recess, Congress is scheduled to return to Washington, D.C. for four weeks before taking its summer recess beginning on August 2, 2008. During the August recess the Democratic Party will hold it's National Convention in Denver on August 25-28, and the Republican Party will hold its National Convention the following week on September 1-4 in Minneapolis – St. Paul.

2. Federal Issues:

a. Internet Gambling

Despite enactment of the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA), there continues to be considerable discussion about online wagering among policymakers. As enacted in September 2006, UIGEA prohibits any person engaged in the business of betting or wagering from knowingly accepting certain financial instruments, credit cards and fund transfers for unlawful Internet gambling. In

addition, the law requires the Treasury Department and Federal Reserve Board to issue regulations requiring financial institutions to implement policies and procedures that identify and block prohibited financial transactions involving unlawful Internet gambling. While proposed regulations were published in October 2007, to date there is no indication when final regulations will be implemented.

While the sports community anxiously awaits final implementation of the regulations that will effectively enforce the law, several Members of Congress have introduced measures that attempt to further study this issue and others that even attempt to reverse the current law. These include H.R. 2046, the Internet Gambling Regulation and Enforcement Act of 2007, which would amend federal law and allow Americans to lawfully bet online; H.R. 2140, the Internet Gambling Study Act, which would require a comprehensive study on Internet gambling, the legal framework that applies to such activities, and the impact of UIGEA; and H.R. 5523, the Internet Gambling Regulation and Tax Enforcement Act of 2008, which would create a framework to collect taxes on regulated Internet gambling activities. Finally, on April 10, 2008, Representative Barney Frank (D-MA) and Representative Ron Paul (R-TX) introduced H.R. 5767, which would enjoin the Security of Treasury and the Federal Reserve Board from proposing, prescribing, or implementing any regulation that would regulate financial transactions involving unlawful Internet gambling. On June 25, 2008, Representative Frank (D-MA), Chairman of the House Committee on Finance held a mark-up of H.R. 5767. In a surprising 32-32 tie vote, H.R. 5767 was defeated under committee rules.

Next Steps: The NCAA and a coalition comprised of professional sports leagues and family values organizations will continue to educate Members of Congress and their staffs about the dangers of online wagering. In addition, the coalition will continue to work with the Treasury Department and Members of Congress and provide comments when appropriate on proposed regulations.

b. Cable a la carte

During the last several years there has been an ongoing debate between some consumer advocates, large cable programmers and cable operators. Much of this discussion has focused on cable and satellite television network tiering and a la carte options for consumers. Members of the US House of Representatives and Senate, and the Federal Communications Commission (FCC) have been actively engaged in the

examination of this issue. In addition, sports programming, sports networks and sports leagues have been an integral part of this discussion. Individuals representing these interests have opposed any federal mandates to require a la carte or themed tier programming for cable networks in lieu of the current basic or expanded basic tier.

To date, during the 110th Congress, no relevant legislation has been introduced on this issue. However, FCC Chairman Kevin Martin recently announced a proposal that would allow cable operators to remove any network with a monthly license fee that exceeds 75 cents from the expanded tier. Adoption of such a regulation would likely remove a number of programmers, including ESPN from the expanded basic tier since their monthly license fees are above the proposed threshold.

In response to this proposal a joint letter of opposition was sent from MLB, NHL, NBA, WNBA, NASCAR and the NCAA. This letter expressed concerns that adoption of an a la carte regime would have a disparate regulatory impact on the most popular programming networks, including those that offer a significant amount of sports telecasts. The letter highlighted problems with the proposal by pointing out that implementing such requirements will diminish consumer welfare and result in higher prices and fewer program choices.

Next Steps: The NCAA government relations staff will continue to monitor any policy or regulatory activity on this matter. Also, when appropriate the NCAA will educate policymakers about the ramifications of mandating a la carte or themed tier programming.

c. Bowl Championship Series.

On April 27, 2008, Representative Neil Abercrombie (D-HI), Representative Lynn Westmoreland (R-GA), and Representative Mike Thompson (R-ID) introduced a resolution requesting that the U.S. Justice Department conduct an investigation of the Bowl Championship Series to determine if it constitutes an illegal restraint of trade. To replace the current post-season structure, H. Res. 1120 calls for the establishment of an NCAA Division I Football Bowl Subdivision Championship playoff system. Introduced as a resolution, this measure if passed would not have the effect of law; however, it would put Congress on record as supporting a postseason playoff.

Since introduction, H. Res. 1120 has not received any additional legislative attention other than the addition of Representative Jim Matheson (D-UT) as a cosponsor on May 8, 2008.

3. State Issues.

a. Sports Wagering.

Amidst intense budget concerns, Delaware lawmakers have continued to look for different solutions to the State's expected budget shortfall. Among the options being discussed to bring in additional revenue is the introduction of legalized sports wagering. As one of four states grandfathered under the federal law prohibiting wagering on sporting events, Delaware can legislatively move to lawfully conduct a limited form of sports betting.

On May 15, 2008, the Delaware House of Representatives passed a bill that would allow betting on professional and college sports teams, with the exception of Delaware schools. The legislation was passed in the House of Representatives by a vote of 28-10. The bill is currently before the Senate Committee on Finance, where it faces a very uncertain future. While there are proponents who believe that sports betting might generate between $22 and 70 million dollars, there are opponents to the measure who believe that a sports lottery would only generate a few million dollars and opens the door to a host of social ills. NCAA government relations staff along with NCAA enforcement staff traveled to Dover to educate members of the state senate on our concerns with expanding sports wagering in their state. Delaware Governor Ruth Ann Minner, who is completing her final term in office, continues to be opposed to sports betting as a means to produce revenue.

The Delaware legislature is scheduled to adjourn on June 30, 2008 and it appears unlikely that any additional action will be taken on this matter. However, it is believed that it is highly probable that the debate regarding sports betting will continue when the legislature convenes in January 2009.

Next Steps: NCAA government relations staff will continue to educate Delaware legislators about the dangers of online wagering and the threat it poses in undermining the integrity of sports contests.

b. Uniform Athlete Agents Act.

The Uniform Athlete Agent Act (UAAA) is a state model act, which establishes uniform athlete agent registration procedures and provides safeguards for student-athletes and membership institutions. In addition, the act imposes criminal, civil and/or administrative penalties against unscrupulous agents. To date, the UAAA has been passed in 36 states, the District of Columbia and the U.S. Virgin Islands. Most recently, Colorado enacted the Uniform Athlete Agent Act, and due to a low number of registered agents, Montana repealed its law governing athlete agents.

Next Steps: The NCAA Office of Government Relations will continue to educate state legislators regarding the many benefits of this important model act. In addition staff will continue to reach out to NCAA members in States that have yet to adopt the UAAA to request their assistance in seeking passage.

4. Higher Education Associations.

NCAA government relations staff continues to build strong relationships with various higher education associations. The American Council on Education (ACE), the Association of American Universities (AAU), the National Association of State Universities and Land Grant Colleges (NASULGC), and the National Association of College and University Business Officers (NACUBO), continue to provide guidance and support on issues of common interest. The NCAA government relations staff looks forward to continuing these mutually beneficial relationships to better formulate and further the NCAA's legislative goals.

A G E N D A

National Collegiate Athletic Association
Division I Presidential Advisory Group

Conference call
Dial-In number: 1-800-588-3167
Pass Code: 1662487
Bruce Grube, chair

August 4, 2008
3 p.m. EST

1. Opening remarks.

2. Report of the April 23, 2008, Division I Presidential Advisory Group in-person meeting and highlights from the April 24, 2008, Division I Board of Directors meeting. [Supplement No. 1]

3. NCAA President's report.

4. Review of the agenda for the August 7, 2008, Board of Directors meeting. [Supplement No. 2]

   a. Report from the Committee on Academic Performance meeting. [Supplement No. 3] [No action anticipated.]

   b. Update on the work of the Division I Basketball Academic Enhancement Group. [Supplement No. 4] [No action anticipated.]

   c. Update on the work of the Division I Football Academic Enhancement Group. [Supplement No.5] [No action anticipated.]

   d. Update on the Division I Task Force on Commercial Activity in Intercollegiate Athletics. [Supplement No.6] [No action anticipated.]

   f. Status report from the Oversight and Monitoring Group (OMG). [Supplement No. 7] [No action anticipated.]

5. Legislative issues. [Supplement No. 8]

   a. Override request regarding Proposal No. 2007-30-C -- Recruiting -- Contacts and Evaluations -- Men's Basketball Evaluations -- April Contact Period.

   b. Proposed modification to the composition of the Division I Football Issues Committee. [Note: At the April 24, 2008, meeting, the Board examined Proposal No. 2008-05. The PAG will be asked to consider another concept discussed by the CCA to be provided in advance of the call.]

6. Discussion of other issues of interest to the group.

   - Proposal No. 2007-109 -- Executive Regulations -- NCAA Properties and Marketing Restrictions -- Exception for Institutions Participating in NCAA Championship Events -- Number of and Access of Videographers and Photographer. [Supplement No. 9]

7. Other business.

8. Future meeting dates and times.

   a. October 29, 2008, national office, Indianapolis, Indiana.

   b. January 2098 conference call TBD.

   c. April 29, 2009, national office, Indianapolis, Indiana.

9. Adjournment.

ADDENDUM
SUPPLEMENT NO. 5
DI Board of Directors 8/08

REPORT OF THE AUGUST 4, 2008, CONFERENCE CALL OF THE DIVISION I PRESIDENTIAL ADVISORY GROUP

Participants:

Charles Bantz, Indiana University/Purdue University - Indianapolis
William Beauchamp, University of Portland
Al Bowman, Illinois State University
Anthony DiGiorgio, Winthrop University
Philip Dubois, University of North Carolina, Charlotte
Robert Fisher, Belmont University
Bruce Grube, Georgia Southern University (chair)
Walter Harrison, University of Hartford,
Ann Millner, Weber State University
Kevin Mullen, Siena College
Thomas Powell, Mount St. Mary's University
Randall Webb, Northwestern State University
Myles Brand, NCAA
S. David Berst, NCAA
Beth DeBauche, NCAA, recording secretary

Presidential Advisory Group members unable to participate were: Robert Caret, Rebecca Chopp, Milton Gordon, Ronald Mason, William (Bill) Meehan and James Wright.

[Note: The Horizon League and the Mid-Eastern Athletic Conference are in the process of naming new representatives to the Division I Presidential Advisory Group.]

Participating during portions of the call NCAA staff members: Elsa Cole, Megan Coyne, Julie Cromer, Kevin Lennon, Steve Mallonee, Todd Petr, and Bill Regan.

1. **Opening remarks**. The chair recognized Rebecca Chopp and Philip Dubois as new members of the Presidential Advisory Group.

2. **Report of the April 23, 2008, Division I Presidential Advisory Group meeting and highlights from the April 24, 2008, Division I Board of Directors meeting**. The group briefly reviewed actions from the April 24, 2008, Division I Board of Directors meeting relative to issues discussed by the Division I Presidential Advisory Group (PAG) during its meeting on April 23, 2008.

3. **President's Report**. The NCAA President informed the Presidential Advisory Group that a recent ruling by the 8th Circuit Federal Court of Appeals in the case of CSC Distrib. And Mkting. Inc. v. Major League Baseball L.P., in which the court applied Missouri state law

to professional fantasy leagues, has led fantasy sports games distributors to conclude that offering a college football fantasy game that includes names and game statistics of college student-athletes would be consistent with the ruling. He reminded the group that there is an apparent conflict with this ruling and a July 2008 NCAA rule interpretation, which states the use of a student-athlete's name in connection with a fantasy sports game even when there is not an entry fee or prize associated, is a violation of NCAA bylaws. He informed the group that a cease and desist letter would be sent by the Association on behalf of its members and student-athletes to any distributor engaged in such activities and that the Board would be encouraged to address whether fantasy sports games that adhere to certain parameters necessarily violate the principles of amateurism.

4. Review of the agenda for the August 7, 2008, Board of Directors meeting.

a. Report from the Committee on Academic Performance meeting. The group received a report from the chair of the Committee on Academic Performance (CAP) on that group's July 9 – 10, 2008, meeting and learned that the CAP is asking the Board to change the composition of its committee to, among other things, increase the size of the committee from 11 members to 15 members, to include a minimum of two chancellors or presidents serving at all times and to extend the term of the current chair for an additional two years, to expire in September 2011. **The Presidential Advisory Group offered no objection to this recommendation and members commended President Walter Harrison for his continuing leadership and service.** The Presidential Advisory Group also was informed that the Board is going to be asked to approve the APP policies and procedures, which include updates to the procedures for Occasion-Three and-Four Historical Penalty waivers and appeals.

The Presidential Advisory Group also was informed that due to the administrative and procedural complexities involved, the CAP does not support the concept of APP penalties following coaches as a means to track the academic success of individual head coaches. The CAP is, though, exploring the concept of permitting access to archived APR reports via the NCAA Web site to provide easier access for institutions conducting research during a coaching search. **Individual PAG members noted that from an accountability standpoint and as a management tool, it may be more helpful to tie this information to a coach's name rather than an institution. A member also suggested that the Committee on Athletics Certification explore whether institutions should have a system in place to have the presidents/ chancellors review APR scores with head coaches on an annual basis.**

b. Update on the work of the Division I Basketball Academic Enhancement Group. The Presidential Advisory Group received an update on the ongoing work of the Men's

Basketball Academic Enhancement Group, which was charged by the Board to not only identify characteristics that may improve the academic performance of Division I men's basketball student-athletes but to suggest changes that would enhance the academic progress and graduation rates of those student-athletes. The group learned that the Basketball Academic Enhancement Group will review feedback received from the membership during its August 8, 2008, meeting, with the goal of providing the Board a series of recommendations by October 2008. The Presidential Advisory Group was reminded that once the Board receives these recommendations, the rest of the governance structure, including the Presidential Advisory Group, will have additional opportunities to provide comments and feedback. **This issue will be placed on the agenda for the October Presidential Advisory Group meeting.**

c. Update on the work of the Division I Football Academic Enhancement Group. The Presidential Advisory Group was informed that given research findings regarding the relatively poor academic performance of football student-athletes, a working group was established with the goal of identifying strategies for academic improvement in that sport. That group, which is conducting most of its work in subcommittees on a subdivisional basis, met in-person for the first time in mid-July. The group expects to provide a preliminary report to the Board as early as October 2008 and a final report no later than April 2009. **The Presidential Advisory Group will also receive the information at that time.** Thereafter, the recommendations will be considered by the Division I governance structure under its normal legislative process.

d. Update on the Division I Task Force on Commercial Activity in Intercollegiate Athletics. The Presidential Advisory Group was informed that the Task Force's charge is to develop guiding principles and instructive guidelines that clearly identify the balance point between unrealistic idealism and crass commercialism. The Presidential Advisory Group also learned that it is anticipated the Task Force will seek to complete its charge within the next few months at which time the governance substructure will seek to provide comments and fill in details as necessary. **The Presidential Advisory Group will receive regular updates to ensure the group can provide feedback.**

e. Status report from the Oversight and Monitoring Group (OMG). The Presidential Advisory Group received an update on the July 2, 2008, meeting of the Oversight and Monitoring Group and on the resulting progress being made by the governance substructure in reviewing the various recommendations of the Presidential Task Force on the Future of Division I Intercollegiate Athletics. As part of this update, the Presidential Advisory Group learned that, of the 62 initiatives identified, almost all of

the initiatives have either been reviewed by the governance substructure or are scheduled to be reviewed. **Presidential Advisory Group members commented that the OMG status report is a helpful document in keeping the initiatives and ideas identified by the Presidential Task Force on the Future of Division I Intercollegiate Athletics at the forefront of the Division I reform agenda.**

5. Legislative issues.

a. Override request regarding Proposal No. 2007-30-C -- Recruiting -- Contacts and Evaluations -- Men's Basketball Evaluations -- April Contact Period. The Presidential Advisory Group was informed that 62 member institutions have submitted override requests regarding the adoption of Proposal No. 2007-30-c, which is intended to prohibit Division I Men's Basketball coaches from observing "non-scholastic events" during the April contact period. The Presidential Advisory Group heard that the staff plans to recommend to the Board that they sustain their earlier action as the proposal is designed to address two major concerns as it relates to the environment in men's basketball. Those concerns being, the increase in nonscholastic influences in the sport and poor academic performance and preparation. **Members of the Presidential Advisory Group indicated support for the Board sustaining its earlier action as they expressed concern regarding the academic preparation of prospective student-athletes in the sport of men's basketball.**

b. Proposed modification to the composition of the Division I Football Issues Committee. The Presidential Advisory Group was reminded that as part of Division I governance restructuring, both the Board and Presidential Advisory Group were asked in April to review a proposal to restructure the Football Issues Committee. At that time, concern was expressed by some FCS representatives regarding their level of representation, and as a result, the Board tabled the proposal to allow time for the FCS commissioners to provide feedback. The Presidential Advisory Group was informed that since April, a different proposal was developed with the help of the commissioners, which ensures each legislatively sanctioned FBS and FCS conference would have a representative on the committee. **The Presidential Advisory Group members offered no objections to this proposal as drafted.**

c. Proposal No. 2007-109 -- Executive Regulations -- NCAA Properties and Marketing Restrictions -- Exception for Institutions Participating in NCAA Championship Events -- Number of and Access of Videographers and Photographer. The Presidential Advisory Group was reminded that this proposal was tabled by the Board in January at the suggestion of staff given concerns that providing access to an extra institutional videographer at championships sites would cause logistical and contractual problems. The Presidential Advisory Group was informed that in April,

the Board decided to leave the proposal on the table, directing the staff to develop a compromise. The Presidential Advisory Group was told that the staff has since reached what it thinks is a compromise with the sponsoring conference, which would provide more access to one videographer but penalties for institutions that use such video inappropriately. **The Presidential Advisory Group will receive an update on the Board's action at its October meeting**.

6. **Future meeting dates and times.** The next meeting of the Presidential Advisory Group will be October 29, 2008, in Indianapolis, Indiana. The meeting will start at noon with lunch being served at 11 a.m. More details regarding meeting logistics will be sent by staff shortly. The Presidential Advisory Group identified January 12 at 3 p.m. (Eastern) as the time for the PAG's next conference call. Members having ideas for possible agenda items are encouraged to contact staff liaisons Beth DeBauche or David Berst.

Progress Report of the Division I Men's Basketball Academic Enhancement Group (As of May 27, 2008)

Background.

During its April 2007, meeting, the NCAA Division I Board of Directors approved the formation of an NCAA Division I Men's Basketball Academic Enhancement Group, a working group composed of presidents and chancellors, head coaches, commissioners, directors of athletics and faculty athletics representatives, which was established to develop strategies to enhance academic performance and graduation rates in NCAA Division I men's basketball. Graduation rates in men's basketball are among the lowest in Division I, and the then impending elimination of the small squad adjustment was expected to further impact the sport. The academic preparation of men's basketball student-athletes is unique from many other sports, and overall, they are less prepared academically than student-athletes who participate in other sports. It was essential, therefore, that NCAA constituent groups work together to evaluate the causes and develop meaningful strategies to improve academic performance. The success of a similar group in baseball and discussions involving head basketball coaches and representatives of several governance committees and NCAA staff at the 2007 Men's Final Four supported the establishment of the Division I Men's Basketball Academic Enhancement Group as a meaningful step toward identifying solutions.

The Division I Men's Basketball Academic Enhancement Group was directed to develop appropriate recommendations for consideration by the Division I membership within a timeline of approximately 12 to 18 months. The group was provided a charge to:

1. Analyze available data, research and literature regarding the academic performance trends of Division I men's basketball student-athletes.

2. Identify characteristics and factors in the sport that may be serving to impair the academic performance of Division I men's basketball student-athletes.

3. Identify changes that would enhance academic progress and graduation rates in Division I men's basketball.

4. Submit to the Division I Board of Directors, no later than the end of 2008, a set of recommendations and proposals that would enhance APR and graduation rates in Division I men's basketball.

5. Maintain ongoing communication with, and seek reactions from, the NCAA governance structure, and the National Association of Basketball Coaches [NABC] membership and conference offices during the course of the project.

The Division I Men's Basketball Academic Enhancement Group conducted its initial meeting in Indianapolis at the national office in August 2007, and agreed that the project could most

effectively be accomplished through the use of subcommittees. The following subcommittees were formed and charged with identifying and developing potential solutions, legislative and non-legislative, for consideration by the full group.

1. Subcommittee on Academic Preparation and Academic Support.

2. Subcommittee on Coach/Player Relationships.

3. Subcommittee on Playing and Practice Seasons.

4. Subcommittee on Transfers – Both Incoming and Outgoing.

5. Subcommittee on the 0 for 2 Phenomenon.

The subcommittees have conducted several meetings, both in-person and by conference call and have developed preliminary recommendations/solutions specific to their respective areas. During its April 25th in-person meeting the full group again convened and discussed the subcommittee's recommendations in detail, offered additional comments and suggestions and began to develop some preliminary consensus positions on some of the recommended solutions. The following information sets forth the current progress of the Division I Men's Basketball Academic Enhancement Group to date. It should be emphasized that this is a progress report and many of the recommendations as well as consensus positions are likely to undergo additional discussion and consideration prior to being put forth as a final recommendation/position of the full group. Continued discussion will occur during the summer as well as solicitation of feedback from various constituencies in the Division I governance structure. The Division I Men's Basketball Academic Enhancement Group is scheduled to convene as full group on August 8th , at which time it is anticipated that the group will be prepared to make final recommendations. A final report including the group's recommendations will be prepared shortly thereafter and provided to the Board of Directors for consideration at its October 30th meeting.

<u>Recommendations Receiving Preliminary Support</u>.

1. **Proposed Academic Preparation, Enhancement and Summer Access Model - Mandatory Summer School**.

Background and Rationale. The full group supported a proposed academic preparation and enhancement model that involves summer school attendance and summer access for Division I men's basketball student-athletes. The primary intent of this recommendation is to increase academic performance. It is important to emphasize athletics access that has an academic nexus tied to it. This model proposes a playing and practice season structure that is designed to encourage greater academic commitment, while also providing an opportunity for coaches and student-athletes to interact and enhance the coach/player relationship throughout the academic year and summer.

Data reviewed by the group indicates that student-athletes who enroll in summer school, particularly early in their academic career are far likely to make appropriate academic progress toward their degrees during their playing career. [See Attachment No.1], In addition, a survey of Division I men's basketball student-athletes attending summer school revealed that time spent on athletically related activities while enrolled in summer school has been approximately 10-11 hours on a weekly basis. Thus, the ability to engage in such activities in a more structured environment under the supervision of the coaching staff will not increase the status quo during the summer, but could prove beneficial in the establishing a stronger coach/player relationship in a less pressured environment. A definition of summer access and summer school requirements have been included to assist in understanding a practical application of the model. It is designed both for individuals during the summer prior to initial full-time enrollment and continuing student-athletes.

a. **Summer School Requirements.** Current financial aid legislation permits institutions to provide athletics aid for the summer prior to initial full-time enrollment under several conditions in NCAA Bylaw 15.2.8.1.4. Further, NCAA Bylaw 15.2.8 and its subsections, outline legislation related to summer financial aid for enrolled student-athletes.

The proposed definition of required summer school includes a requirement that all student-athletes, who have signed financial aid agreements to receive athletically related financial aid for the ensuing regular academic year, be enrolled in a minimum of six hours of acceptable degree credit. Consistent with the provisions of Bylaw 14.4.3.4.4, such hours may include remedial courses, provided the courses are prerequisites for specific courses acceptable for any degree program. Institutions that offer athletically related financial aid would be required to provide financial aid to these student-athletes to attend the summer session. Further, institutions must provide such student-athletes life skills education (e.g., course, seminar, training session). The provisions of NCAA Bylaw 15.2.8.1.4 would continue to apply to individuals during the summer prior to initial full-time enrollment, except that such an individual would be permitted to engage in athletics activities, as defined in the ensuing section entitled, "Definition of Summer Access.".

An exception would be provided to those institutions that do not offer summer courses to the general student body. However, such institutions would not be able to take advantage of the summer athletics access component of this model. Further, institutions that offer summer courses, but do not offer any athletically related financial aid [e.g., award only need-based aid] would have two options. The first option would be to use the previously noted exception applicable to institutions that do not offer summer courses to the general student body. Institutions electing to use this option would not be required to award summer financial aid, but also would be prohibited from participation in summer athletics access. The second option would be available for those institutions who wish to participate in the summer athletics access. These institutions would be subject to the mandatory summer aid requirement for those recruited student-athletes who qualify for nonathletically related aid to attend the summer session. The summer athletics access provisions of this model would be applicable to those student-athletes enrolled in a minimum of six hours of acceptable degree credit and who are receiving nonathletically related financial assistance or covering their own cost of summer school.

b. **Definition of Summer Access.** Under current legislation, coaches and student-athletes are limited in the amount of time spent on athletics activities and the nature of those activities during the regular academic year and institutional vacation periods, including the summer. Specifically, it is not permissible for coaches and student-athletes to participate in countable athletically related activities during the summer vacation period.

The definition of summer access for this model is based on the use of required weight training, conditioning and individual skill instruction as avenues for summer athletics access. Individual skill instruction provides an opportunity for student-athletes and coaches to work together to improve aspects of the student-athletes' individual skill in a more intimate structure. The focus on individual skill instruction addresses concerns from the men's basketball community regarding the importance of increased access to student-athletes during the summer, but prevents full team practice on a year-round basis.

The proposed definition would permit the allocation of eight hours per week as the maximum number of hours per week in which it would be permissible to engage in these activities, with no more than two hours devoted to skill-related instruction. This length of time is consistent with current legislation governing athletics activities outside the playing season during the academic year. Based on current legislation, the membership appears to accept eight hours per week as a reasonable balance between the academic and athletic needs of student-athletes while not imposing an undue burden on their time. Similarly, while cognizant of time demands issues that also exist during the summer, this proposed definition does not exceed eight required

hours per week in order to provide student-athletes sufficient time to engage in other pursuits.

In addition to identifying the appropriate maximum number of hours per week, the number of weeks during the summer in which access shall be permitted should be considered in the same manner. The proposed definition would specify a period of eight weeks of access at the institution's discretion. For comparison purposes, the identification of an eight-week period presents a consistent length of time as provided for in the football summer conditioning period. Consideration should also be given to academic needs and other time demands concerns in determining the eight-week period as appropriate for football. Likewise, the remaining time outside the eight-week period should be designated as student-athlete discretionary time as outlined in existing legislation in which a student-athlete can only participate in athletics activities at his or her discretion.

c. Summary of the Model's Concepts

(1) All institutions would be required to provide summer financial aid for incoming and continuing men's basketball student-athletes, who have signed financial aid agreements to receive athletically related financial aid for the ensuing regular academic year, as an additional financial aid requirement of Division I membership. Financial aid must be awarded for a minimum of six hours. Institutions whose financial aid package includes an exceptional amount of Pell Grant assistance would be required to provide one half of the value of the summer financial aid to each recruited men's basketball student-athlete who has signed a financial aid agreement for the ensuring regular academic year. [Note: An exceptional amount of Pell Grant assistance is defined as those institutions that in a given academic year have an average per-student allotment of Pell Grant dollars for undergraduate students reported to the U.S. Department of Education the previous September that is more than one standard deviation above the mean for all reporting Division I membership institutions for that year].

(2) Further, institutions would be required to provide such student-athletes life skills education (e.g., course, seminar, training session). Such educational activities should be organized in a manner to assist coaches with developing strategies for individual student-athletes, with a particular focus on career planning and "life after basketball" skills.

(3) Upon summer enrollment, incoming recruited men's basketball student-athletes, who have signed financial aid agreements for the ensuing regular academic year, would be considered student-athletes under all NCAA legislation.

Currently, under NCAA Bylaw 13.02.11.1, these individuals are not subject to contact regulations in Bylaw 13 and are considered student-athletes only for purposes of Bylaw 16. They are considered prospective student-athletes for the remainder of Bylaw 13 and all other bylaws.

(4) Enrollment in a minimum of six hours would be required as a prerequisite for athletics access during the summer. A waiver from the application of the mandatory attendances requirement would be available when unique circumstances preclude an incoming or continuing student-athlete from attending summer school. A student-athlete receiving a waiver of the mandatory attendance requirement would not be permitted to engage in the athletics access during the summer.

(5) A credit-hour requirement would be established such that incoming and continuing men's basketball student-athletes, who have signed financial aid agreements to receive athletically related financial aid for the ensuing regular academic year, would be required to satisfactorily complete a minimum of six hours of academic credit during the summer as a prerequisite for eligibility in the fall term. A student-athlete who is not eligible for competition in the fall, based on unsuccessful completion of at least six hours during the summer, would be permitted to regain eligibility at the conclusion of the fall term, provided he meets all other applicable progress-toward-degree regulations. [Note: A nonqualifier must still complete an academic year of residence before being eligible for competition; however, he would be eligible for summer financial aid and athletics access during the summer prior to initial full-time collegiate enrollment.]

(6) Discussions with the full group remain on-going as to whether institutions would be permitted to conduct required athletics activities [i.e., mandatory weight training, conditioning or individual skill-instruction] from the end of the institution's playing season until the week prior to the beginning of the institution's final examination period It would remain permissible for student-athletes to participate in voluntary weight training and conditioning supervised by a strength and conditioning coach only for health and safety purposes [Note: Institutions that do not offer summer courses to the general student body and institutions that do not provide athletically related financial aid to student-athletes [and elect to use the exception] would be permitted to conduct mandatory weight training, conditioning and skill instruction after the end of the playing season until the week prior to the beginning of the institution's final examination period].

2. Proposed Playing and Practice Season Model. The group supported the following playing and practice season model that provides for a slight reduction in the number of games, a staggered schedule for the start of team practice and other legislative modifications designed to minimize missed class time during the season. The group believes that the implementation of a basic scheduling philosophy with the key components listed below will reduce missed class time during the playing season.

a. <u>Preseason Conditioning and Practice</u>.

(1) Permissible Preseason Conditioning Activities (Beginning of academic year). The current rule that permits a men's basketball student-athletes to engage in a maximum of eight hours per week of conditioning or physical-fitness activities, of which not more than two hours may be spent on skill-related workouts, would remain unchanged.

(2) On-Court Team Practice Activities. Beginning October 1, instead of eight hours per week for conditioning or physical-fitness activities, an institution's men's basketball team shall be allowed to participate in activities as follows:

- October 1-7: Of the 8 hours per week allowed for strength/conditioning and/or skill instruction, allow coaches the option to conduct on-court practice for a maximum of 4 of the 8 hours. All countable athletically related activities shall be prohibited during two calendar days.

- October 8-14: Instead of 8 hours, increase the number of hours to 12 per week for strength/conditioning and/or skill instruction and allow coaches the option to conduct on-court practice for a maximum of 8 of the 12 hours. All countable athletically related activities shall be prohibited during two calendar days.

- October 15: Regular team practice begins with 20 hours per week, with one day off per week during which no countable athletically related activities shall occur. .

[Permitting institutions to utilize a "staggered schedule" for the start of team practice earlier (October 1 rather than mid-October) will allow: freshman student-athletes more time to become acclimated to college life, and for further

development of the coach/player relationship prior to the beginning of the traditional on-court team practice time.]

(3) **Missed Class Time Policies**. Policies must be implemented to limit missed class time due to athletics participation (e.g., student-athlete may not miss more than 10 percent of class meetings per semester due to athletics participation). Athletics participation schedules that include the amount of missed class time due to athletics participation must be approved prior to each semester by the faculty athletics representative or faculty oversight committee.

b. **Practice Scrimmages/Exhibition games**. The group **r**ecommended modifications to the current legislation regarding informal preseason scrimmages to specify that such practice scrimmages shall not result in missed class time allowed by the student-athletes of the participating institutions.

c. **Playing season**.

(1) An institution shall conduct regular-season games no earlier than start the Saturday prior to Thanksgiving.

(2) An institution shall conduct a maximum of 28 regular-season games over 14 weeks (two games per week for 14 weeks) or, a maximum of 26 games, if the institution participates in a Qualifying Regular-Season Multiple Team Event.

(3) An institution shall participate in no more than two games per week, except during holiday or vacation periods as defined in the institution's official catalog.

(4) An institution shall not participate in any games during the week of final exam period(s) as defined in the institution's official catalog.

(5) An institution shall not participate in more than one away from home regular season conference game Monday through Thursday of any given week.

3. Academic Progress Rate (APR) Policies.

Background and Rationale. Academic success within a particular sport or on specific teams likely occurs as a result of the interplay of many factors, including a student-athlete's academic profile, athletics time demands, personal factors (e.g., family finances), athletics opportunities

(e.g., playing time, professional departure) and the level of commitment to academic success by players, coaches, administrators and others. The ultimate academic casualty occurs when a student-athlete fails academically and separates from the institution. Under such circumstances, not only does an individual student-athlete fall off track, but his team also loses 2 of 2 possible NCAA Division I Academic Progress Rate (APR) points for his last academic term.

While the number of "0/2" student-athletes in NCAA Division I dropped over the last three years, the decrease occurred at a slower pace in the sport of men's basketball than in any other sport. By comparison, the number of "0/2" student-athletes in football and baseball dropped by 12 percent and 21 percent, respectively, from 2003-04 to 2005-06; however, the number of "0/2" student-athletes in men's basketball decreased by only 3%. Together, these three sports accounted for 49% of all "0/2" student-athletes nationally in 2005-06.

Trends in "0/2" performance by gender and ethnicity indicate higher percentages of male and ethnic minority student-athletes among those who depart and are ineligible to return. In addition, there are higher percentages of "0/2" student-athletes among those who transfer, particularly those who transfer from a two-year college to a four-year college. In each of the last three APR reporting years, between nine and 10 percent of two-year transfer student-athletes have lost both the eligibility (E) and retention (R) points for their teams.

General Observations Related to the Academic Progress of Division I Men's Basketball Student-Athletes.

a. **Stronger connections to Head Coach**. Men's basketball players seem to have stronger connections to their head coaches and/or a style of play than to their programs or their institutions overall.

b. **Head coaching change will occur when expectations are not met**. The subcommittee acknowledged there are times when a transition in personnel simply must be made for the short- and long-term health of the program. For example, institutional leadership may choose to replace a head coach to restore the program's competitive level, to make improvements to a team's APR, to turn around an unhealthy environment for players, or to meet expectations and goals of the institution and its alumni and supporters.

c. **The "margin of error" is different in men's basketball.** The subcommittee acknowledged that, in the sport of men's basketball, the academic performance of only one or two players can significantly impact a team's APR.

d. Gravitational pull of professional basketball opportunities. There are unique professional opportunities available to men's basketball student-athletes. Student-athletes may submit their names for consideration in the NBA annual draft at as long as they are at least 19 years of age during the calendar year in which the draft is held, and at least one NBA season has elapsed since the individual's graduation from high school. In addition to the NBA, there are numerous opportunities available to men's basketball student-athletes in international professional leagues. The subcommittee members discussed the difficulty in maintaining a level of academic engagement for these student-athletes once they have declared for the draft. The subcommittee members who coach these student-athletes indicated that there is a cultural expectation that they disengage academically once the basketball season has ended in order to prepare for the draft.

e. Nature of the NBA tryout process. The annual NBA draft traditionally occurs in June. Student-athletes who have declared their desire to be drafted often participate in tryouts and the annual pre-draft camp (late May/early June) that occurs between the conclusion of the basketball season and the draft. Again the topic of academic disengagement was discussed, as well as the concern that those who may want to remain engaged cannot due to the tryout schedule. The group also discussed the common practice of agents or advisors to recommend prospective professional basketball players leave their institutions to prepare for the pre-draft camps at some other location.

f. Nature of the combine process for international leagues. The tryout process for international leagues does not appear to be as organized as the NBA tryouts. There are professional league tryouts conducted in several countries from June through early September, but it is unclear how the schedule of those tryouts impacts a student-athlete's academic endeavors in his last term of enrollment prior to departing for the professional ranks. There is also a concern with this preparation that agents or advisors recommend that student-athletes leave their institutions to prepare for the tryouts.

The following are preliminary recommendations supported by the group related to the application of the Academic Progress Rate [APR] policies: [Note: Where applicable, the recommendations will be forwarded to the Committee on Academic Performance for consideration].

a. Provide greater flexibility in the waiver and adjustment processes during head coaching transitions. The NCAA Division I Basketball Academic Enhancement Group supports some relief in contemporaneous penalties when a coaching transition occurs and to include the possibility to discount the retention (R) point when circumstances can be documented to reflect an individual student-athlete's decision to leave an institution due to a coaching change. Given the institutional responsibility to foster an environment that supports student-athlete academic achievement and retention, the group was reluctant to recommend steps that would alter the NCAA

Division I Academic Progress Rate (APR) calculation in all instances of coaching transition.

b. **Revise the APR adjustment guidelines to be more flexible and to allow consideration of the student-athlete's level of academic engagement and achievement to the point of departure from the institution to pursue a professional athletics career, should that departure occur during his fourth year of collegiate enrollment.** Currently a student-athlete must have earned the eligibility (E) point in his last term of enrollment prior to departing the institution for the professional ranks in order for the institution to request an adjustment to the lost retention (R) point. Basically, the student-athlete has to be a "1/2" in order for the staff to consider granting an adjustment to the lost R point. However, in some instances (e.g., departures for foreign leagues) student-athletes must leave prior to the conclusion of the academic term in order to pursue professional opportunities. The subcommittee recommends providing relief specifically for a student-athlete in his fourth year of college enrollment. The staff will have to develop a means of assessing academic engagement and academic performance; however, consideration could be given to the student-athlete's APR point record for previous terms, his progress toward graduation and his level of academic engagement at the time of departure (e.g., class attendance, preliminary grades, completed assignments and faculty reports). This analysis could lead to APR adjustments (i.e., 1/1) in those cases in which student academic performance and engagement can be documented through class attendance records, preliminary grades, completed assignments and faculty reports.

c. **Revise the calculation of the APR to award an additional point as an incentive to motivate early graduation.** Currently, APR points are awarded on a term-by-term bases as follows: one point if the student-athlete is eligible for competition at the conclusion of the term (E), and one point if the student-athlete is retained the following term (R). At most, a student-athlete can accrue two points in one term, or "2/2." The subcommittee recommends the NCAA Division I Committee on Academic Performance modify this point calculation when a student-athlete completes a baccalaureate degree in less than four academic years. A similar accommodation could be provided for a student-athlete enrolled in a five-year baccalaureate degree program if he completes that program in less than five years. The subcommittee suggests when a student-athlete graduates ahead of schedule, the calculation include an additional point in the numerator. The early graduate would be considered a "3/2." Current policy stipulates that once a student-athlete graduates, the R point will continue to be awarded in all subsequent terms of enrollment. However, in order to earn the E point, the student-athlete must pass a minimal number of hours. Again, because of the nature of some professional opportunities, athletic and otherwise, some student-athletes do not complete terms after graduation or do not

complete them satisfactorily. Should a graduated student-athlete fail to earn the E point in a term of enrollment after graduation, the additional point that was earned due to an early graduationwould compensate for the lost point. If the student-athlete earns the E point after graduation, the additional point for early graduation would truly be a bonus for the student-athlete and the team.

d. Examine current professional tryout practices with the National Basketball Association (NBA) and the Federation of International Basketball Associations (FIBA). The NCAA could work with the NBA and FIBA to determine whether other tryout options are available to encourage less missed class time among student-athletes still enrolled while exploring or pursuing professional opportunities.

e. Adopt legislation granting "noncounter" status to a student-athlete who wishes to remain at the institution, but not participate in athletics, after the departure of the head coach who recruited him. Such student-athletes could continue to receive athletics aid, but would not count against team scholarship limits as long as they do not return to athletics participation. If such a student-athlete was granted "noncounter" status, then elected to return to the men's basketball team in a subsequent term or season, he would become a counter for all years during which athletics aid was received. The subcommittee believes this legislative change would provide additional flexibility to student-athletes when their coaches leave, particularly for those who are in their final two to three semesters of a degree program who may not wish to transfer. The group does recognize, however, that many student-athletes are motivated to continue participating in basketball and still may choose to transfer for more playing time at a different institution, regardless of the scholarship opportunity at the original institution.

f. Remove legislative barriers that may prevent a student-athlete from returning to an institution to complete a degree after a professional career. Current legislation allows for five years of athletics aid to be provided within a six-year time period. Athletics aid awarded beyond those parameters must be "earned" aid. Flexibility in this area may encourage more former student-athletes to return to complete their degrees.

g. **Recommendation Related to Four-Year College Transfers** The group discussed Division I men's basketball student-athletes that transfer from a Division I institution and supported a recommendation that the Committee on Athletic Performance continue to examine and develop appropriate policies to allow for an adjustment of a retention point lost when a student-athlete transfers, provided: the student-athlete has a cumulative grade-point-average of 2.00 or higher and was academically eligible.

4. Other Recommendations.

Official Visits – Travel Expenses for Parents/Legal Guardians. The group recommends that the full group consider sponsoring legislation to allow institutions to provide travel expenses to the parents or legal guardians to accompany the prospective student-athlete on the prospect's official visit. Such a practice will ensure that coaches have greater opportunities to develop the player /coach relationship with the entire family, provide an avenue to emphasize the importance of education/academics and also provide greater insight into the family background that may assist coaches in making more sound decisions in the recruiting process.

Issues Still Under Consideration.

The following concepts will continue to be discussed by the full group [or one of its subcommittees], but no preliminary consensus position has been developed at this time.

1. Incoming Two-Year College Transfers.

a **Collect Research.** After reviewing research data supplied by the NCAA research staff, the group determined that there is insufficient data currently available to support any substantive increase to the academic requirements for two-year college transfers in the sport of men's basketball. The group believes that data should be collected that would help determine the characteristics of a successful two-year college transfer. In addition to academic based data, the group also believes that focus groups consisting of current and former two-year college transfers should be surveyed to determine what nonacademic based issues contribute to the academic success or failure of two-year college transfers in the sport of men's basketball.

b. **Academic Access to Two-Year College Student-Athletes.** The group continues to explore the development of proposals that would provide academic support for two-year college transfers in the sport of men's basketball. This would require earlier access to the two-year college transfer student-athletes by academic support personnel at the four-year institution. In particular, the group is modeling current articulation agreements that various four-year institutions have with two-year institutions in part because of the demonstrated success that these agreements have in supporting the two-year college transfer at the two-year and four-year institutions.

2. Year of Academic Readiness.

a. Overview. For various reasons, some prospective student-athletes are underprepared academically to enter a four-year college or university and achieve academic success. Such prospective student-athletes have several options:

(1) Attend a junior college in an effort to remedy academic deficiencies. This option begins a prospective student-athlete's progress-toward-degree requirements timeline (e.g., after two years the prospective student-athlete must have completed 40 percent of the requirements toward a bachelor's degree).

(2) Attend a four-year college/university, and with significant academic support, attempt to make up academic deficiencies while taking a full college course load.

(3) Attend a preparatory school in order to get better prepared academically for college.

While the reasons for lack of academic readiness vary, none of the options are ideal academically. Two-year transfers have the lowest graduation rates according to both federal and NCAA graduation rates data. While many preparatory schools are excellent, attendance at some does little to improve the academic readiness of a prospective student-athlete. Reports from the academic support community confirm that admitting prospective student-athletes who are academically significantly behind their general student body peers present some real challenges, even with the best academic support services in place. Additionally, some institutions are not able to devote significant financial resources to academic support activities.

The following is a new concept for consideration that provides academically underprepared prospective student-athletes another option involving NCAA member institutions. ***A central question that may be important in the reform work is, "What mechanism exists or should exist for academically underprepared student-athletes to remediate deficiencies in order to eventually graduate from a four-year institution?"***

The concept outlined would permit prospective student-athletes to attend a member institution on athletics-related financial aid for a largely remedial academic year, without triggering the current progress-toward-degree requirements. The concept is further defined below.

b. Legislative Parameters.

(1) Prospective student-athlete must use the year of academic readiness prior to any post high school college enrollment. The institution and the prospective student-athlete must declare in writing the year of academic readiness after final determination of the student's qualifier status, but not later than the last opportunity to enroll in the college's summer term. A student-athlete must be admitted to the institution, which could include a special admit or similar designation. A prospective student-athlete may only use the year of academic readiness in their first year of collegiate enrollment.

(2) Year of academic readiness would be available to nonqualifiers.

(3) Student-athlete may receive athletics-related aid. Student-athlete's financial aid would count against team limits consistent with any other student-athlete receiving aid.

(4) Student-athlete may not compete.

(5) Student-athlete may practice with the team at institutional/local facilities only.

(6) Student-athlete may not travel with the team to any away competitions or other events (e.g., no summer foreign tours, no post-national championship trips to the White House).

(7) Student-athlete's five-year athletics clock would start at the beginning of the year of academic readiness.

(8) Student-athlete is not subject to percent degree, grade-point average and credit-hour requirements until after completion of the year of academic readiness (e.g., the terms do not count for purposes of determining grade-point average and percent-degree requirements). The student is subject to applicable institutional requirements (e.g., must be in good academic standing and meet university requirements).

(9) Student-athlete who transfers during the year of academic readiness is subject to an academic year in residence.

(10) Student-athlete is subject to the following academic requirements in order to be eligible for competition in their second year of collegiate enrollment.

- Student-athlete must be enrolled full time per applicable legislation.

- Must complete 12 hours toward any degree program prior to the start of the student-athlete's second year of enrollment. Such hours do not have to be completed during the academic year (e.g., some or all may be earned during the summer).

- Must complete six semester or quarter hours per regular academic term and 18 semester or 27 quarter hours during the academic year. All such hours may be remedial.

- By the start of the student's third year of collegiate enrollment, the student must complete 36 degree-applicable semester hours (i.e., 12 from the first year, plus 24 required in year two) with a grade-point average of 90 percent of the institutional requirement (e.g., generally 2.000 is required thus a 1.800 would be needed).

- The student-athlete may not use any remedial hours to meet progress-toward-degree standards after completion of the year of academic readiness. Only remedial hours taken in the year of academic readiness may be used to meet academic eligibility requirements.

The following table summarizes the credit-hour requirements for these students using a semester school as the example:

Term	**Minimum hours required**
Summer after high school	6 hours
Fall semester (Year 1)	6*/9 hours
Spring semester (Year 1)	6*/9 hours
Summer after Year 1	6 hours
	30 hours completed. 12 hours must be degree credit.

*Must pass 6 hours per term and 18 hours during academic year.

c. NCAA Division I Committee on Academic Performance/NCAA Division I Academic Progress Rate Impact.

(1) A year in readiness student-athlete who meets the NCAA Division I Academic Progress Rate (APR) cohort definition (e.g., are on athletics aid) will be included in a teams' APR.

(2) A year in readiness student-athlete earns a retention point in the same manner as all other student-athletes in the cohort.

(3) A year in readiness student-athlete earns the eligibility point if they meet the progress-toward-degree requirements applicable to a student-athlete using an academic year of readiness referenced in this document.

(4) The student-athlete would fail to earn the eligibility point if they do not graduate in six years, as opposed to the five years for student-athlete's not using this year of readiness.

d. General Observations.

(1) Nonqualifiers are not permitted to receive athletics-related aid in their first year at a member institution. This legislation has been discussed throughout the years with some supporting aid to nonqualfiers. Aid to nonqualifiers certainly could be an alternative or addition to any discussion about the year of academic readiness. This concept however, does more than provide a means for aiding nonqualifiers, it also provides some relief from the immediate implementation of the progress-toward-degree standards while a prospective student-athlete more fully prepares academically for a traditional full college credit load.

(2) Conferences with prohibitions against nonqualifiers may want to examine the implications of the year of academic readiness and whether such a concept would be permitted.

(3) The two-year college community has expressed interest in delaying the onset of the "40-60-80" percent-degree requirements for two-year transfers. This request is predicated by the difficulty of improving academic deficiencies during a prospective student-athlete's two-year college enrollment and also ensuring the prospective student-athlete is prepared to meet the percent-degree requirements after four-year college enrollment.

(4) This concept will not appeal to all academically underprepared prospective student-athletes. It will however, give those most interested in earning a college degree an option currently unavailable. At a minimum, it pulls to the forefront a prospective student-athlete's decision about education versus professional athletics ambitions.

(5) Data demonstrates that prospective student-athletes who attend one four-year institution are most likely to graduate, as opposed to those who transfer. This concept may increase graduation rates among those minimally prepared for college.

(6) Who will determine whether a prospective student-athlete makes use of the year of academic readiness? Those decisions would be made by member institutions in consultation with each prospective student-athlete, similar in some ways to decisions regarding redshirting.

(7) Many in the college academic-support ranks have indicated a preference for having underprepared prospective student-athletes attend four year member institutions immediately after high school as opposed to transferring. This proposal permits a limited number of special admit prospective student-athletes to attend four-year institutions on

Note: It also should be noted that the group engaged in extensive discussion as to whether two year colleges are better equipped to assist in the remediation of academically underprepared men's basketball student-athletes and agreed there is some merit in considering the "Academic Year in Readiness" concept to be applied during the initial year of enrollment at a two-year college.

3. Best Practices. The group continues to develop a comprehensive list of best practices designed to assist institutions in implementing policies/practices to improve the academic performance of Division I men's basketball student-athletes. The list will include many practices /policies identified by the National Association of Academic Advisors for Athletes [N4A]. [See Appendix A]

A G E N D A

National Collegiate Athletic Association

Football Academic Working Group

NCAA National Office
Indianapolis, Indiana

July 18, 2008

1. Introductions and opening comments. (Joseph Castiglione)

2. Overview of research. [Supplement No. 1] (Todd Petr)

3. Eligibility subcommittees' reports.

   a. Football Bowl Subdivision. [Supplement No. 2] (Rhonda Hatcher)

   b. Football Championship Subdivision. [Supplement 3] (Alan Hauser)

4. Retention subcommittees' reports. [Supplement No. 3]

   a. Football Bowl Subdivision. [Supplement No. 4] (Judy MacLeod)

   b. Football Championship Subdivision. [Supplement No. 5] (Joe Sterrett)

5. Finances subcommittees' reports. [Supplement No. 4]

   a. Football Bowl Subdivision. [Supplement No. 6a and 6b] (Warde Manuel)

   b. Football Championship Subdivision. [Supplement No. 7a and 7b] (Peter Fields)

6. Discussion of subcommittee reports.

7. Front line/institutional issues. (Castiglione)

8. Next steps, process and informing constituent groups.

9. Future meetings.

10. Adjournment.

Football APR Working Group
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Executive Summary of the NCAA Division I Committee on Academic Performance July 2008 Meeting Prepared for the NCAA Division I Board of Directors

1. NCAA Division I Committee on Academic Performance Composition and Appointments. [ACTION]

The NCAA Division I Committee on Academic Performance anticipates an increase in the number of NCAA Division I Academic Performance Program (APP) penalty appeals as more severe sanctions are implemented. Revisions to the committee structure are necessary to effectively and expeditiously review waivers and appeals submitted by the membership. The committee recommends this proposal be considered as emergency legislation so the recommended changes can take effect immediately, in preparation for the 2008-09 APP waiver season. The recommendations are as follows:

a. To increase the size of the committee from 11 members to 15 members.

b. To require the committee to include a minimum of two chancellors or presidents serving at all times.

c. To establish an exception to the committee's term limits to permit the chair of the committee to serve at the discretion of the NCAA Division I Board of Directors, with reconsideration of the chair's term extension to occur at least every two years.

d. To extend the term of the current chair, President Walter Harrison, University of Hartford, for an additional two years, to expire in September 2011.

e. To appoint current member President Melvin Johnson, Tennessee State University, as vice chair of the committee.

f. To appoint the following ad hoc members to the committee as voting members with appropriate staggered terms:

   (1) Tom Burnett; Commissioner, Southland Conference;

   (2) John Morris; Senior Associate Director of Athletics, University of Washington; and

   (3) Greg Sankey; Associate Commissioner, Southeastern Conference.

g. To direct the NCAA Division I Administration Cabinet to appoint a faculty athletics representative or provost to the committee to fill the remaining vacancy.

2. APP Policies and Procedures. [ACTION]

The committee recommends the Board of Directors approve the APP policies and procedures, which include updates to the procedures for Occasion-Three and -Four Historical Penalty waivers and appeals as specified in Attachment B of the full report, with particular attention to:

a. The designation of specific roles and authority of the staff, committee, and the subcommittee of the Board of Directors (see Attachments A and B of executive summary and Page Nos. 74, 76 and 83-90 of Attachment B of full report);

b. The definition of the standard for review of institutional appeals by the subcommittee of the Board of Directors (see Page Nos. 84 and 104 of Attachment B of the full report); and

c. The increase in flexibility within the Occasion-Four Historical Penalty waiver review process to provide relief to teams with acceptable academic performance, while still holding a poor-performing team in restricted membership (see Page No. 103 of Attachment B of the full report).

3. APP Penalties Following Coaches and Coaches' Rate. The committee discussed APP penalties following coaches and the possible development of an academic coaches' rate to be used to track the academic success of individual head coaches. Due to the administrative and procedural complexities involved, the committee did not support the proposed concepts. However, the committee did refer to the NCAA Division I Committee on Academic Performance Subcommittee on Data Collection and Reporting the concept of permitting access to archived NCAA Division I Academic Progress Rate (APR) reports via the NCAA Web site to provide easier access for institutions conducting research during a coaching search.

4. NCAA Division I Academic Performance Program Supplemental Support Fund Annual Report. In its first year of implementation, 31 of the 36 eligible institutions applied for NCAA Division I Academic Performance Program Supplemental Support Fund (SSF) grants. All 31 applicant institutions received funds, for a total of $1,729,212 committed in support of initiatives designed to foster student-athlete academic success at limited-resource institutions.

NCAA Division I Committee on Academic Performance
Occasion-Three and -Four Historical Penalty Waiver/Appeal Summary

Institution files waiver through LSDBi.

Waiver Case Staff

The waiver case staff has the authority to approve or conditionally approve waivers. It may not deny or partially deny waivers.

1. If the waiver case staff does not approve or conditionally approve a waiver, the waiver is forwarded to the NCAA Division I Committee on Academic Performance for review at an in-person hearing.

2. If the waiver case staff conditionally approves a waiver, the institution has seven calendar days to accept the staff's conditional approval and stated condition(s).

3. If the institution does not accept the staff's conditional approval, the staff forwards the waiver to the committee for an in-person hearing. The waiver will be heard de novo (anew), and the committee may render any decision including denial.

Committee on Academic Performance

1. The committee will review waivers at an in-person hearing.

2. Nonwaiver case staff members will support the committee during and after deliberations.

NCAA Division I Board of Directors Subcommittee

1. The subcommittee will hear appeals of committee waiver decisions.

2. Appeals will be heard via teleconference. Committee chair will present on the call.

3. Standard of review: Committee abused its discretion in applying the legislation and/or policies and procedures of NCAA Division I Academic Performance Program.

4. Nonwaiver/committee staff will support Board of Directors during and after deliberations.

ATTACHMENT B

Summary of the
NCAA Division I Board of Directors Subcommittee Role in Historical-Penalty Waivers

The following summarizes the NCAA Division I Board of Directors role in the appeals process for the most severe NCAA Division I Academic Performance Program (APP) historical penalties (e.g., postseason competition and membership restrictions).

1. The Board identifies members to serve on a subcommittee to review Occasion-Three and –Four Historical Penalty appeals. The Board has discretion as to number of members and chair. A five-person subcommittee is suggested, with at least one member from each subdivision.

2. The NCAA Division I Committee on Academic Performance decisions of Occasion-Three and –Four penalty waivers may be appealed to the Board subcommittee based only on the following criteria:

   - The committee failed to follow NCAA legislation and/or established APP policies and procedures, and this failure reasonably could have resulted in a different decision by the committee.

   Generally the subcommittee will make the determination as to whether this criteria has been met. However, the subcommittee chair does have the authority to determine that a case does not meet this criteria and therefore the committee's decision is upheld.

3. The subcommittee hears appeals on a one hour teleconference with key institutional representatives and the committee chair present, then immediately deliberates by phone. The first point of decision is whether the committee failed to follow legislation and/or policies. This is not a de novo re-hearing of the waiver.

4. If the subcommittee does not find that the committee failed to follow policy or that a failure could have resulted in a different outcome, the committee's decision is upheld. If the subcommittee finds the committee did fail to adhere to policies which impacted the outcome, the subcommittee then must render an alternative decision (e.g., approve, conditionally approve, partially approve or deny).

5. Identified NCAA staff will support the subcommittee in this work including drafting decisions.

REPORT OF THE NCAA DIVISION I COMMITTEE ON ACADEMIC PERFORMANCE JULY 10, 2008, MEETING

***ACTION ITEMS*.**

1. Legislative Items.

- **Composition of the NCAA Division I Committee on Academic Performance.**

(2) Recommendation. The NCAA Division I Committee on Academic Performance recommends the NCAA Division I Board of Directors sponsor emergency legislation as follows:

(a) To increase the size of the committee from 11 members to 15 members;

(b) To require the committee to include a minimum of two chancellors or presidents serving at all times; and

(c) To establish an exception to the committee's term limits to permit the chair of the committee to serve at the discretion of the Board of Directors, with reconsideration of the chair's term extension to occur at least every two years. [Attachment A]

(3) Effective Date. Immediate.

(4) Rationale. The committee anticipates an increase in the number of NCAA Division I Academic Performance Program (APP) penalty waiver appeals as more severe penalties are implemented in 2008-09. An increase in the size of the committee is necessary to effectively and expeditiously review waivers and appeals submitted by the membership. In addition, an increase in size will improve the committee's ability to maintain a sufficient number of members as people recuse themselves as needed during waiver and appeals deliberations and hearings. Further, the recommendation to require at least two chancellors or presidents to serve on the committee at all times will increase the likelihood that a chancellor or president will be available for all committee meetings, including hearings of Occasion-Three and –Four Historical Penalty waivers. Finally, the exception to the committee's term limit will enable the chair to provide continuity of knowledge and service as the committee moves through this critical phase of the academic reform cycle. As such, it is in the best interest of the Association to permit the chair to serve beyond the current legislative term limit as the Board of Directors deems appropriate.

The committee recommends this proposal be considered as emergency and noncontroversial legislation so that the recommended change can take effect immediately, in preparation for the 2008-09 APP waiver season.

(5) Estimated Budget Impact. Minimal, expenses for four additional committee members.

(6) Student-Athlete Impact. None.

2. Nonlegislative Items.

a. Committee Appointments.

(1) Recommendation. The committee recommends the Board of Directors take the following actions regarding to committee members and terms:

(a) Extend the term of the current chair, President Walter Harrison of the University of Hartford, for an additional two years, to expire in September 2011.

(b) Appoint President Melvin Johnson, Tennessee State University, as vice chair of the committee. President Johnson is a current committee member.

(c) Due to the time-sensitive nature of the committee expansion, immediately appoint the following current ad hoc members to the committee as regular members with appropriate staggered terms:

i. Tom Burnett; Commissioner, Southland Conference;

ii. John Morris; Senior Associate Director of Athletics, University of Washington; and

iii. Greg Sankey, Associate Commissioner, Southeastern Conference.

(d) Direct the NCAA Division I Administration Cabinet to appoint a faculty athletics representative or provost to the committee to fill the remaining vacancy.

(2) Effective Date. Immediate.

(3) Rationale. The extension of the current chair's term and the appointment of a president as vice chair will emphasize presidential leadership of academic reform and will provide practical benefits to the committee's operational activities (e.g., vice chair will serve in the chair's absence during any meetings, teleconferences, and/or penalty waiver proceedings). The appointment of the ad hoc members noted above will formalize the role of individuals who already are familiar with the committee's work and policies and procedures, and will be prepared to fully participate in waiver and appeals work. The experience of these ad hoc members is critical as the committee hears appeals of serious penalties this year. Finally, the committee's current composition, including the ad hoc members, includes a diverse blend of individuals with various backgrounds, perspectives, expertise and job responsibilities; however, the group believes at this time additional faculty representation would be helpful.

(4) Estimated Budget Impact. None.

(5) Impact on Student-Athlete Well-Being. None.

b. Committee Policies.

(1) Recommendation. The committee recommends the Board of Directors approve the APP policies and procedures (Attachment B) which include updates to the Occasion-Three and -Four Historical Penalty waivers and appeals. The rationale highlights some of the more significant updates which include designation of specific roles and authority of the staff, committee and the subcommittee of the Board of Directors, and the definition of the review standard for institutional appeals by the subcommittee of the Board of Directors and flexibility in the Occasion-Four waiver process.

(2) Effective Date. Immediate.

(3) Rationale. These policies and procedures have been updated with routine changes the committee has made throughout the year. Additionally, in anticipation of the number of teams that could be subject to Occasion-Three and -Four Historical Penalties, the policies provide for greater staff authority to render approvals and conditional approvals to help ensure efficient use of committee time and institutional resources. Further, the committee noted that teams or institutions desiring to appear before the committee will be afforded that opportunity. These appeal policies require

the appointment of a subcommittee of the Board of Directors to hear appeals of committee waiver decisions when such cases meet a rigorous standard for review. If the subcommittee or the subcommittee chair determines the standard for Board of Directors review has not been met, the committee's decision will be upheld. If the subcommittee or its chair determines the standard for Board of Directors review has been met, the appeal will be heard by the appointed subcommittee via teleconference and an alternative decision (e.g., approve, conditionally approve, partially approve or deny) may be rendered.

The updated policies and procedures also provide for the review of Occasion-Four Historical Penalties that permit the committee to provide relief to teams with acceptable academic performance, while still holding a poor-performing team in restricted membership. In developing the Occasion-Four restricted-membership penalty, the Incentives/ Disincentives Working Group noted the importance of severe penalties serving as deterrents within the historical-penalty structure. As such, the penalty was designed so that restricted membership status shall apply to the institution's entire athletics program (i.e., all sports teams), rather than only to the low-performing team, for a period of one year. While the committee noted a penalized institution would not have to discontinue its varsity sports programs and, thus, could continue to award athletics scholarships and sponsor sports teams, it is certain to face challenges in scheduling competitions and in public relations. Further, it is possible conference sanctions could apply if the institution loses full membership status. Given the severe nature of the penalty and the potential consequences for the penalized institution, including teams that may be performing well academically, the committee supports the addition of this flexible option within the waiver process.

Lastly, the policies and procedures specify that an institution or team that did not satisfy the condition(s) of a previous waiver be required to impose the penalties in the year subsequent to its failure to meet the specified conditions. Further, this penalty shall be taken in addition to any other historical penalties the team incurs. Conditional relief of penalties is provided based on the premise the team will meet the specified conditions during the subsequent academic year. Teams not meeting the specified conditions and continuing to progress in the historical penalty structure should be accountable for all accumulated penalties (i.e., waived penalty from the previous year and penalty of subsequent year). Further, the staff/committee may consider the specified timing to impose the full penalties during the waiver process of the subsequent penalty.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

INFORMATIONAL ITEMS.

1. Criteria for Transfer Adjustments. The committee codified within the NCAA Division I Academic Progress Rate (APR) Adjustment Directive the Board of Directors' approval of a modification to the APR calculation that permits a "1/1" adjustment for transfer students who meet specified criteria. Further, the committee continued its discussions regarding the criteria for review of adjustment requests for student-athletes who transfer with a grade-point average below 2.600 and agreed that the student-athlete must present a cumulative grade-point average of at least 2.000 and meet all other transfer adjustment criteria for the adjustment to be considered. In addition, the staff will review academic factors (e.g., number of transferable credit hours accepted by the next institution and applicable to the student-athlete's designated degree program, positive trends in the student-athlete's academic performance, student-athlete's academic success compared to other students with similar admissions profiles) to determine whether an adjustment is warranted. The committee directed the staff to apply a very high standard of review for these requests and noted this will be a rigorous standard to meet for approval. The committee also requested additional data related to transferable degree credit that may be informative to staff in its review of these adjustments requests and agreed to monitor transfer adjustments throughout the year. Finally, the NCAA Division I Committee on Academic Performance Subcommittee on Data Collection and Reporting considered a request from a member institution to amend the criteria for the automatic adjustment for the retention point when a student-athlete transfers. The member institution proposed that the retention point be automatically adjusted (i.e., "1/1") for a student-athlete who transfers, provided he or she leaves the institution after meeting all applicable requirements to be eligible in the following academic term. In addition, if such a student-athlete transfers to another Division I institution and later becomes academically ineligible, that institution would be "double penalized" for accepting the transfer student-athlete and APR points would be added to the denominator. For example, a student-athlete who withdraws over the summer would be "1/1" for the spring term at the initial institution, provided he or she earned the "E" point before departing. If the student-athlete transfers to another institution and subsequently fails to meet eligibility requirements and withdraws, he or she would earn "0/4" points, rather than "0/2" points for his or her final term. The member institution noted this proposal would require institutions to carefully consider accepting transfer student-athletes at their respective institutions and would not penalize the first institution that ensured the student-athlete maintained eligibility. The Subcommittee on Data Collection and Reporting requested the staff gather data regarding the potential impact of this concept for additional discussion at its next meeting. [Attachment C]

2. **Coaches' Rate and APP Penalties Following Coaches.** The committee discussed APP penalties following coaches and the development of an academic coaches rate to be used to track the academic success of a particular head coach. The committee explored the following options:

   a. Creation of an academic rate of measure specifically attributed to each head coach throughout his/her career.

   b. Creation of an identified prescribed penalty applicable to all head coaches leaving a team with an APR lower than a specified benchmark, regardless if the institution incurred a penalty in that academic year.

   c. Requiring institutions hiring a coach employed by a penalized institution to apply all penalties to which the coaches' previous team is subject.

   d. Creation of a database that tracks the APR "record" of all head coaches for all applicable academic years.

   e. Publishing the names of coaches of those teams subject to APP penalties in connection with the current publication of high- and low-performing teams.

   f. Publishing the name of the "head coach of record" for each team for the academic year on each institution's public APR report.

   g. Requiring institutions hiring a coach employed by a penalized institution to present rationale to the committee defending the hiring.

   Due to administrative and procedural complexities involved, the committee did not support any of the proposed concepts. Additionally, the committee noted that while coaches play a critical role in academic success, many other campus personnel impact a team's APR (e.g., director of athletics, faculty athletics representative, academic support personnel, president). However, the committee did refer to the Subcommittee on Data Collection and Reporting the concept of permitting access to archived APR reports via the NCAA Web site to provide easier access for institutions conducting research during a coaching search.

3. **Progression within the Historical-Penalty Structure.** The committee amended its policies and procedures to provide the committee and staff discretion to waive the progression to Occasion-Four Historical Penalties when making decisions regarding Occasion-Three penalty waivers. In such cases, an institution could repeat Occasion-Three Historical Penalties if it fails to meet the stated conditions in the following year, rather than advancing to Occasion-Four Historical Penalties. The Occasion-Four Penalty

includes restricted membership status for the institution and is the most severe APP penalty. In some cases, the committee or staff may determine a team has significantly underperformed academically and Occasion-Three penalties should not be waived. However, the team's performance and mitigating circumstances may offer some rationale for not advancing the team in the next year to Occasion-Four penalties, but instead repeating Occasion-Three penalties. Once a team is subject to Occasion-Three penalties, the authority to waive progression to Occasion-Four Historical Penalties provides the staff and committee more flexibility to apply the appropriate penalty relief for a team. Additionally, the committee discussed the role of APR Improvement Plans in the APP penalty waiver process and whether institutions should be required to submit multiyear APR goals that outline how the team plans to reach the APR penalty benchmarks (i.e., achieve a multiyear APR above 900). The committee requested the NCAA Division I Committee on Academic Performance Subcommittee on Appeals review this concept further in October.

4. **Occasion-Two Historical Penalties.** The committee reviewed the application of Occasion-Two penalties (e.g., financial aid restrictions, playing and practice seasons restrictions) and the reporting requirement for institutions imposing the penalties. The committee approved an educational column that provides information regarding the practice penalties and a list of acceptable academic support activities in which penalized teams may engage to replace reduced practice time. [Attachment D]

5. **Amendments to the APP Penalty Waiver Directive.** The committee approved specified amendments to the penalty waiver directive. The recommended amendments to the directive are based on increased experience reviewing APP waivers and the guidance provided by the Subcommittee on Appeals to the staff while reviewing APP waivers over the past three years. The more significant changes include elimination of the tiered review criteria for contemporaneous penalties; addition of review factors based on single-year APR trends and student-athlete "0/2" information; and updates to the APR Improvement Plan section. [Attachment E]

6. **Partial Approval of APP Penalties.** The committee amended its policy regarding partial approval for all APP penalty waivers to reflect that the staff/subcommittee may require a team to satisfy specified conditions in order to receive relief from the portion of the penalty that is waived. All teams subject to penalties have APRs below the established benchmarks and should be held accountable for implementing the team's APR Improvement Plan and potentially meeting other conditions. However, on rare occasions, circumstances warrant relief from a portion of the penalty without needing to hold the team to meeting a condition. The amendment to the policy will allow the committee/staff the flexibility to provide partial relief from a penalty and to determine whether the team shall meet condition(s) in order to receive that relief. Generally, the committee supports requiring a team to satisfy specified conditions as part of the waiver process.

7. APP Data Collection and Reporting Policy for Institutions that Reinstate Dropped Sports in Subsequent Years. The committee approved an amendment to its policies and procedures to require an institution that reinstates a dropped sport(s) to submit APP data according to the following guidelines:

a. If a sport has been inactive at the Division I level for three or more years, the institution would be required to submit APP data for the academic year in which the sport team was reinstated and competition was resumed at the Division I level. The team would be considered to have submitted APP data for the first time, APP data submitted from previous years would no longer be used to calculate the team's (APR) and the team would have the benefit of the squad-size adjustment until four years of APR data is collected, provided the team has a multiyear cohort of 30 or more student-athletes. Additionally, if an institution was subject to an APP penalty at the time the team was discontinued or transitioned to another division, the institution would not be required to impose the penalty.

b. If a sport has been inactive at the Division I level for a period of less than three academic years, the institution would be required to submit APP data for the academic year in which the sport team was reinstated and competition was resumed at the Division I level. Any years of APR data that are within the four-year APR cohort will be used to calculate the new multiyear APR and any penalties the team incurred at the time the team was discontinued will need to be taken at the earliest opportunity. The staff/subcommittee also will determine any additional requirements on a case-by-case basis.

The committee noted that once an institution has reinstated a sport and competed at the Division I level, it is reasonable that the institution should submit APR data for that team for the academic year and any subsequent years the team competes as a Division I sport. In addition, the committee believes if a sport is reinstated within three years, the composition of the team's APR cohort should be determined based on that team's individual circumstances. This will permit the staff/Subcommittee on Data Collection and Reporting to consider the number of student-athletes that remained at the institution, the reasons for the sport being discontinued and other relevant information. However, if a sport is reinstated after a period of three years, the APR cohort will no longer consist of many of the same student-athletes that were part of the team when the institution had to submit APP data for the team. In addition, the committee agreed this revision to the APP data collection and reporting policy will facilitate the transition process as institutions decided to reinstate a sport at the Division I level.

8. **Definition of the APR Cohort for Student-Athletes Receiving Athletics Aid Contingent on Academic Performance.** The committee considered a member institution's request that it determine whether the APP cohort should include a student-athlete who was offered and accepted athletically related financial aid contingent on the student-athlete satisfying various academic criteria before receiving any athletics aid. The committee issued an interpretation to clarify the APR cohort should include any student-athlete who signs an athletically related financial aid agreement for a term and is enrolled full time as of the census date or the fifth week of classes, whichever is earlier, even if the student-athlete does not receive any athletics aid because he or she does not satisfy some contingency within the financial aid agreement. [Attachment F]

9. **Early Graduation Bonus Concept.** The Subcommittee on Data Collection and Reporting initially discussed the possible development of an early graduation bonus point (e.g., "3/2") for student-athletes who graduate with eligibility remaining. However, given time constraints, full committee discussion was delayed until the October 2008 meeting.

10. **Impact of Conference and Institutional Academic Requirements on the APR.** The Subcommittee on Data Collection and Reporting reviewed a summary of the reasons institutions indicated student-athletes did not earn the eligibility point in 2006-07 to determine the potential APR impact when student-athletes satisfy NCAA requirements, but are ineligible for competition under conference requirements. At this time, the subcommittee did not support a change to the definition of academic eligibility to exclude conference requirements, noting its continued support of the committee's previous position that the NCAA has set minimal requirements and that conferences and institutions are permitted to develop their own academic benchmarks.

11. **Revised 2008-09 APR and Penalty Reporting Forms.** The Subcommittee on Data Collection and Reporting approved the final version of the institutional APR and Penalty Reports for the 2008-09 academic year. The reports are intended to provide institutions with their teams' APR, a summary of the teams subject to contemporaneous and/or historical penalties, and detailed worksheets explaining how the penalties were calculated.

12. **APP Focus Groups Conducted at the 2008 Regional Rules Seminars.** The Subcommittee on Data Collection and Reporting received an update from the staff related to focus groups conducted at each regional rules seminar with a select group of athletics personnel from member institutions and conferences. The group was asked to provide feedback and suggestions to improve the APP data collection, the Committee on Academic Performance Web site, the LSDB*i* waiver portal and other APP-related areas. The staff has compiled the focus groups' recommendations and will attempt to implement several of the group's recommendations over the course of the next academic year.

13. **Access to Athletics Activities (e.g., Summer Workouts) Incentive Concept for Women's Basketball.** The Committee on Academic Performance reviewed a report from the May 2008 meeting of the NCAA Division I Women's Basketball Issues Committee, which noted the Women's Basketball Issues Committee is no longer pursuing the incentive-based model of increased athletics access to women's basketball student-athletes during the summer for those teams achieving an identified level of academic success. Instead, the Women's Basketball Issues Committee agreed to consider a broader academic-access model, which would place focus on improving the academic performance of women's basketball student-athletes and on increasing athletics access during the summer. It is anticipated that the Women's Basketball Issues Committee will continue its consideration of this concept at its next meeting and will further define the potential terms of the summer access concept, in addition to the possible academic enrollment requirements (if any) for continuing students.

14. **NCAA Division I Men's Basketball Academic Enhancement Group.** The committee reviewed the April 29, 2008, progress report of the NCAA Division I Men's Basketball Academic Enhancement Group and particularly focused on possible recommendations that, if formally endorsed, may be referred to the committee for further development and implementation. In addition, the committee discussed the potential recommendation to require men's basketball student-athletes to successfully complete a minimum of six hours of acceptable degree credits during the summer term in order to be eligible for competition in the fall and preliminarily agreed to include this requirement when determining spring term "E" points for men's basketball student-athletes, should this recommendation be adopted by the membership. The committee indicated this approach would be consistent with the current application of the awarding of the eligibility point within the APR calculation.

Committee Chair: Walter Harrison, University of Hartford, America East Conference
Committee Liaisons: Julie Cromer, Membership Services
Diane Dickman, Membership Services
Kevin Lennon, Membership Services
Todd Petr, Research
Bill Regan, Membership Services

ATTACHMENT A

Proposal Number: 2008-?

Title: ACADEMIC PERFORMANCE PROGRAM -- COMMITTEE ON ACADEMIC PERFORMANCE -- COMPOSITION AND TERM OF OFFICE, CHAIR

Intent: To increase the composition of the NCAA Division I Committee on Academic Performance from 11 to 15 members and require a minimum of two chancellors or presidents serving at all times; further, to establish an exception to the committee's term limits to permit the chair to serve at the discretion of the NCAA Division I Board of Directors, with reconsideration of the chair's term extension to occur at least every two years.

Bylaws: Amend NCAA Bylaw 23.1, as follows:

23.1 COMMITTEE ON ACADEMIC PERFORMANCE.

The Committee on Academic Performance shall administer the academic performance program.

> 23.1.1 Composition. The committee shall consist of *11* **15** members including a minimum of *one* **two** president**s** or chancellor**s**, one faculty athletics representative, one director of athletics, one senior woman administrator and one conference administrator. The committee shall include at least two members from each of the three Division I membership subdivisions. All committee members should be on the staff of a Division I active institution or conference. A president or chancellor member shall serve as chair**, at the discretion of the Board of Directors, with reconsideration of the chair's term extension to occur at least every two years after serving two full terms**.
>
> [Remainder of 23.1 unchanged.]

Source: NCAA Division I Committee on Academic Performance.

Effective Date: Immediate.

Proposal Category: Amendment.

Topical Area: Academic Performance Program.

Rationale: The committee anticipates an increase in the number of APP penalty waiver appeals as more severe penalties are implemented and an increase in the size of the committee is necessary to effectively and expeditiously review waivers and appeals submitted by the membership. In addition, an increase in size will improve the committee's ability to maintain a sufficient number of members as people recuse themselves as needed during waiver and appeals deliberations and hearings. Further, the recommendation to require at least two chancellors or presidents to serve on the committee at all times will increase the likelihood that a chancellor or president will be available for all committee meetings, including hearings of Occasion-Three and -Four Historical Penalty waivers. Finally, the exception to the committee's term limit will enable the chair to provide continuity of knowledge and service as the committee moves through

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this critical phase of the academic reform cycle. As such, it is in the best interest of the Association to permit the chair to serve beyond the legislative term limit as determined by the Board of Directors to be appropriate. The committee recommends this proposal be considered as emergency legislation so that the recommended change can take effect immediately, in preparation for the 2008-09 APP waiver season. In addition, further debate and discussion regarding this proposal is not likely to change the outcome.

Budget Impact: Minimal, expenses for four additional committee members.

Impact on Student-Athlete's Time: None.

ATTACHMENT B

NCAA Division I
Academic Performance Program
and
NCAA Division I Committee on Academic Performance

<u>Policies and Procedures</u>

Updated: July 2008

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NCAA Division I Academic Performance Program and NCAA Division I Committee on Academic Performance Policies and Procedures

PURPOSE

Purpose of the NCAA Division I Academic Performance Program (NCAA Bylaw 23.01.1)

The central purpose of the NCAA Division I Academic Performance Program (APP) is to ensure that the NCAA Division I membership is dedicated to providing student-athletes with an exemplary educational and intercollegiate athletics experience in an environment that recognizes and supports the primacy of the academic mission of its member institutions, while enhancing the ability of student-athletes to earn a degree.

The Division I membership is committed to providing higher education for a diverse body of student-athletes within the context of an institution's academic and admissions standards for all student-athletes through a system that reward those institutions and teams that demonstrate commitment toward the academic progress, retention and graduation of student-athletes and penalizes those who do not.

COMMITTEE ON ACADEMIC PERFORMANCE -- GENERAL INFORMATION

NCAA Division I Committee on Academic Performance Responsibilities

The NCAA Division I Committee on Academic Performance serves as the oversight body for the APP.

Legislated Duties of the Committee (Bylaw 23.1.2)

The Committee on Academic Performance shall administer all aspects of the APP, including the following duties:

1. Oversee the process governing data collection, analysis and calculation used to determine the NCAA Division I Academic Progress Rate (APR), the Graduation Success Rate (GSR) and the process governing data collection of the Academic Performance Census (APC).

2. Annually publish an explanation of the calculation to the membership.

3. Formulate and revise, as needed, a statement of the established operating policies and procedures of the APP.

4. Determine the minimum acceptable APR and GSR.

5. Determine the appropriate standards on which penalties or rewards apply and notify members of such standards.

6. Identify rewards to acknowledge those institutions and teams that demonstrate a strong commitment toward the academic progress, retention and graduation of student-athletes.

7. Identify and notify institutions or teams that fail to satisfy the appropriate standards under which historical and contemporaneous penalties apply.

8. Identify and notify institutions or teams that demonstrate academic excellence under the APP.

9. Oversee the administration of a public recognition program for institutions or teams that demonstrate academic excellence under the APP.

10. Hear appeals of institutions or teams subject to penalty (or penalties) (both contemporaneous and historical) and any other matters of appeal pursuant to the legislation, and policies and procedures of the APP.

11. Recommend changes to the APP based on research, data analysis and practical experience.

12. Interpret APP legislation and policies.

13. Perform any other duties directly related to the administration of the APP. *(Revised: 4/2007, effective 4/2007)*

Reporting Lines

The Committee on Academic Performance reports to the NCAA Division I Board of Directors.

Composition (Bylaw 23.1.1)

The committee shall consist of 11 members, including a minimum of one chancellor or president, one faculty athletic representative (FAR), one director of athletics (AD), one senior woman administrator (SWA) and one conference administrator. The committee shall include at least two members from each of the three Division I membership subdivisions. All committee members shall be on the staff of a Division I active institution or conference. A chancellor or president shall serve as chair.

As indicated in Bylaw 21.7.2.1, the Committee on Academic Performance is not subject to the requirement that limits subdivisional representation to no more than 50 percent on any committee.

Terms of Office

Committee members generally shall be appointed for a four-year term. A member's term of service shall commence on the first day of September following the member's appointment. A committee member may be reappointed to an additional four-year term on the committee. An individual who has served two terms on the committee may not serve further on the committee.

Committee Appointments

The Board of Directors shall appoint a Committee on Academic Performance that shall be responsible for the administration of the APP.

The chair of the Committee on Academic Performance will make appointments as needed each year to fill subcommittee vacancies. Where appropriate, the chair will refer to the NCAA Division I Committee on Academic Performance Administrative Committee or subcommittee recommendations formally presented to the full Committee on Academic Performance through respective subcommittee/committee reports.

ORGANIZATION AND RESPONSIBILITIES

Organization

In order to administer the APP, the Committee on Academic Performance will organize and assign responsibilities to the subcommittees of the Committee on Academic Performance.

Each committee member may be appointed to at least one subcommittee on which the member will normally serve for the duration of his or her term on the Committee on Academic Performance. The committee members may be asked to serve on more than one subcommittee.

Subcommittees

The following standing subcommittees shall report directly to and help facilitate the work of the Committee on Academic Performance:

Subcommittee/Committee	***Composition***	***Overview of Duties***
Subcommittee on Data Collection and Reporting	Three to five members of the Committee on Academic Performance.	Oversee filing deadline extensions, definition of cohort, notice/appeals of failure to file APR, APC and/or GSR information and associated penalties, APR adjustments, notification to membership regarding data penalties and Occasion-One and -Two Historical Penalties, Contemporaneous Penalties and APP data review.
Subcommittee on Appeals	Three to five members of the Committee on Academic Performance.	Appeals of contemporaneous penalties and Occasion-One and -Two Historical Penalties; and any other matters of appeal not otherwise specified.*
Administrative Committee	Chair of Committee on Academic Performance and Committee on Academic Performance subcommittee chairs.	Act on emergency and noncontroversial matters relative to business of the committee.

[*Note: The full Committee on Academic Performance is responsible for hearing appeals of Occasion-Three and -Four Historical Penalties.]

Full Committee Responsibilities Related to Historical Penalties

1. Determine which institutions are subject to Occasion-Three and -Four Penalties.

2. Provide notice to institutions that are subject to Occasion-Three and -Four Penalties.

3. Administer and oversee all aspects of appeals of Occasion-Three and -Four Penalties.

DUTIES

Administrative Committee

The Administrative Committee is empowered to act on behalf of the full committee to transact necessary, routine and emergency items of business required to promote the normal and orderly administration of the Committee on Academic Performance business.

The Administrative Committee consists of each subcommittee chair, the Committee on Academic Performance chair (who also serves as chair of the Administrative Committee) and the chair-elect (when applicable). All Administrative Committee members, including the chair, may vote on items of business before the committee.

The Administrative Committee is authorized to:

1. Act for the Committee on Academic Performance on routine and noncontroversial matters between in-person meetings;

2. Act for the Committee on Academic Performance on matters of an emergency nature;

3. Interpret APP legislation and policies;

4. Revise, as needed, the established operating policies and procedures of the APP; and

5. Approve participation of ad hoc members (as needed).

The full Committee on Academic Performance will receive all Administrative Committee minutes.

NCAA Division I Committee on Academic Performance Subcommittee on Data Collection and Reporting

The Subcommittee on Data Collection and Reporting shall consist of three to five Committee on Academic Performance members and will:

1. Oversee the collection of APR, GSR, APC and any other data/information necessary to administer the APP;

2. Oversee the annual publication of APR and other data collection information to the NCAA Division I membership;

3. Review all requests for extensions of the APR, APC and GSR data collection filing deadlines;

4. Review all requests seeking use of an alternative definition of “recruited” and/or identification of student-athletes to be used for the purpose of calculating a team’s APR;

5. Determine and notify those institutions subject to penalties for failing to file APR, APC and GSR data by the required deadline;

6. Determine penalties for those institutions subject to penalties for failing to file APR, APC and GSR data by the required deadline;

7. Administer and oversee all aspects of appeals for those institutions/teams failing to file APR, APC and GSR data by the required deadline;

8. Administer and oversee all aspects APR adjustments requests and appeals;

9. Oversee the Committee on Academic Performance reporting function, including responsibility for written notification to institutions of penalties resulting from failure to meet minimum established APR and/or GSR criteria for the contemporaneous- and historical-penalty structures;

10. Administer and oversee the review of APP data for selected institutions including issuance of a final report that summarizes the findings of the review; and

11. Review all requests for relief from contemporaneous and/or historical penalties based on changes to prior year(s) APP data.

NCAA Division I Committee on Academic Performance Subcommittee on Appeals

The Subcommittee on Appeals shall consist of three to five Committee on Academic Performance members and will:

1. Administer and oversee all aspects of appeals of contemporaneous penalties and Occasion-One and -Two Historical Penalties;

2. Develop and publish waiver policies and procedures for contemporaneous and historical appeals;

3. Provide relief for those institutions/teams subject to contemporaneous penalties and Occasion-One and -Two Historical Penalties when the subcommittee finds the legislated penalties too severe, given the mitigating circumstances; and

4. Administer and oversee any other matters of appeal not otherwise specified.

Selection of Committee Chair

The Committee on Academic Performance chair generally serves as chair for the remainder of his or her term. The Committee on Academic Performance shall nominate one or two of its members to the Board of Directors for possible selection as the Committee on Academic Performance chair. A Committee on Academic Performance member is eligible for nomination

for the position of chair only if he or she is the chancellor or president of an active Division I institution.

Generally, the incoming chair shall be identified by the Board of Directors during its October meeting preceding the September 1 term expiration of the current chair's term. The Committee on Academic Performance shall forward its nominee(s) to the Board of Directors prior to the Board of Directors October meeting.

The following process identifies the chair nominee(s).

In the years in which a chair is to be selected, the staff shall work directly with the outgoing Committee on Academic Performance chair to identify Committee on Academic Performance members eligible to serve as chair and to confirm the nomination of one or two chair nominees for confirmation by the Board of Directors. The Committee on Academic Performance chair or the staff, at the request of the Committee on Academic Performance chair, will confirm interest of all nominees.

Responsibilities of Committee Chair

The Committee on Academic Performance chair shall:

1. Lead Administrative Committee and full committee meetings and/or teleconferences;

2. Provide reports regarding the work of the Committee on Academic Performance to Division I governance and membership entities as needed (e.g., NCAA Division I Management Council, Board of Directors, member conferences);

3. Serve as speaking agent for media or public inquiries as needed (per Association's policy);

4. Reply on behalf of the Committee on Academic Performance to written or verbal requests from NCAA-affiliated constituents (e.g., member conferences, member institutions, coaches associations);

5. Oversee development of Committee on Academic Performance agendas;

6. Appoint members to Committee on Academic Performance subcommittees when necessary to facilitate a subcommittee's work;

7. Appoint ad hoc members to subcommittees when necessary to facilitate a subcommittee's work;

8. Appoint Committee on Academic Performance subcommittee chairs;

9. Recommend to the Management Council/Board of Directors that a member of the committee be replaced if the member is not fulfilling his or her duties;

10. Submit nominations for the position of Committee on Academic Performance chair to the Management Council; and

11. All other leadership duties typically associated with chairing a Division I committee.

Selection of Subcommittee Chairs

Each of the Committee on Academic Performance's two subcommittees shall have a chair. Subcommittee chairs are expected to lead subcommittee meetings and conference calls, present subcommittee reports during Committee on Academic Performance meetings and participate as members of the Committee on Academic Performance Administrative Committee.

Subcommittee chairs normally shall serve as chair for the remainder of their respective Committee on Academic Performance terms. Subcommittee chairs shall be selected as follows:

1. The subcommittee discusses the pending open chair position and subcommittee members are provided the opportunity to nominate themselves or another member for the position.

2. The current subcommittee chair or the staff shall confirm the interest and willingness of each nominee to serve as chair.

3. Names of nominees and a recommendation of the outgoing chair are provided to the Committee on Academic Performance chair.

4. The Committee on Academic Performance chair shall select the subcommittee chair.

Responsibilities of Subcommittee Chairs

1. Lead teleconferences and meetings of the subcommittee.

2. Welcome and assist in transition and training of new subcommittee members.

3. When requested, review appeal cases forwarded from staff to determine if the appeal should be considered by the subcommittee.

4. Contact subcommittee members who are not fulfilling their responsibilities and recommend to the Committee on Academic Performance chair that a member of his or her subcommittee be replaced if such member is not fulfilling his or her duties.

5. Recommend selection of new subcommittee chair.

Selection of Ad Hoc Members

In order to facilitate its work or bring needed expertise on particular issues, a Committee on Academic Performance subcommittee may recommend to the Committee on Academic Performance chair that an ad hoc member(s) be appointed to the subcommittee. The Committee on Academic Performance chair has the authority to appoint and dismiss subcommittee ad hoc members. All ad hoc members serve as nonvoting members of the subcommittee/committee.

Agenda Development

1. The Committee on Academic Performance chair shall have final authority to determine the Committee on Academic Performance agenda. The chair shall work in consultation with the staff to finalize the agenda for each meeting.

2. Conferences, institutions or external organizations (e.g., faculty or coaches organizations) with potential agenda items for Committee on Academic Performance consideration shall forward such items to the Committee on Academic Performance's primary staff liaison at the national office. The staff will consult with the institution or conference to determine how best to handle the item and what supplementary material should be provided, if any. The staff shall work directly with the chair where appropriate to facilitate review of conference and institutional matters.

3. Whenever possible, the Committee on Academic Performance will receive all subcommittee agendas and supplements in advance of the subcommittee meetings to ensure that each Committee on Academic Performance member has an opportunity to comment on issues being addressed by those groups. All subcommittee actions, except where otherwise indicated by policy (e.g., appeals), are subject to review and final approval by the full Committee on Academic Performance.

Meeting Participation by Non-Committee on Academic Performance Members

Appearances of non-Committee on Academic Performance members (other than staff) before the Committee on Academic Performance are by invitation only. Exceptions may be made by the Administrative Committee or Committee on Academic Performance chair on a case-by-case basis.

Processing Subcommittee Recommendations

The Committee on Academic Performance follows these policies in processing recommendations from subcommittees that report to it.

1. Each subcommittee shall provide a written report from its meeting to the full Committee on Academic Performance. These reports shall include any requests for full Committee on Academic Performance action recommended by the subcommittee.

2. Any legislative change recommended by a subcommittee shall be presented to the full Committee on Academic Performance for discussion and action.

3. The Committee on Academic Performance may elect to alter any subcommittee recommendation requiring a vote of the full Committee on Academic Performance.

4. If further deliberations are required, the Committee on Academic Performance may table the recommendation or refer it back to the subcommittee for additional discussion.

Voting Procedures

The method of voting on issues considered by the Committee on Academic Performance shall be by show of hands of the Committee on Academic Performance members present and voting, except for actions taken by the unanimous or obvious consent. Committee on Academic Performance members must be present to vote and a simple majority of members present and voting will prevail.

Speaking Agent Policy

The NCAA speaking agent policy is as follows:

> "The president of the Association and the chair of the Executive Committee are the only individuals authorized to speak on behalf of the Association except as outlined below.
>
> An individual representing a member institution or conference who speaks or opines on an Association issue only has the authority to express the view of that individual or the member institution or conference unless the individual has been designated by the Executive Committee of the Association as a speaking agent of the Association on that issue.
>
> Committee chairs are hereby designated as speaking agents of their committees regarding issues within their committees' jurisdiction on which there is consensus, except that positions of advocacy on behalf of the committee or the Association to be communicated in writing or orally to persons or entities external to the Association must have prior approval by the NCAA Executive Committee or the president of the Association. For

purposes of this policy, committees include all NCAA committees, cabinet, boards, councils, subcommittees and special or ad hoc groups.

The president of the Association is hereby granted authority to designate additional speaking agents of the Association."

Committee on Academic Performance members are expected to adhere to this policy.

Absences

The Committee on Academic Performance generally conducts in-person meetings four times annually. Alternates may not be appointed to attend a meeting in the absence of a Committee on Academic Performance member. Committee on Academic Performance members who are not in attendance at two consecutive meetings will be contacted by the chair of the subcommittee(s) on which they serve to discuss the member's continued service to the subcommittee and Committee on Academic Performance. Further absences will result in the Committee on Academic Performance chair or staff contacting the committee member and/or the conference office of the representative to discuss the member's excessive absences. A Committee on Academic Performance member may be dismissed from the committee after further absences.

Meeting Schedules

The Division I Management Council, subject to ratification by the Board of Directors, is responsible for developing policies governing the length, sites and expenses related to Division I committee meetings (Bylaw 31.7.2).

Conflicts of Interest

A Committee on Academic Performance member shall not participate in the committee's discussion or vote on any action that might bring direct or indirect financial benefit to the member or any organization in which the member is financially interested (other than the member's institution or the conference of which it is a member). A violation of this rule by a member of the committee shall not invalidate the action taken by the committee if, following disclosure of the conflict of interest, the committee authorizes, ratifies or approves the action by a vote sufficient for the purpose, without counting the vote of the committee member with the conflict of interest, and the Board of Directors approves such action.

Additionally, Committee on Academic Performance members shall recuse themselves from committee discussion (including appeals) involving their own respective institutions, an institution within their conference or any other institution with which they have a personal conflict of interest (e.g., based on past employment, personal relationships.)

Adopting/Revising Policies and Procedures – General

The Committee on Academic Performance shall have the authority to adopt or revise policies and procedures annually, or as needed, for the conduct of the APP. The policies and procedures governing the administration of the APP are subject to review and approval by the Board of Directors.

Adoptions or revisions to the policies and procedures shall be reviewed annually by the Committee on Academic Performance. As necessary, adoptions and revisions approved by the Committee on Academic Performance shall be forwarded for review and approval to the Board of Directors.

The Committee on Academic Performance shall publish annually the policies and procedures of the committee and of the APP. The Committee on Academic Performance shall also publish a data collection guide and penalties guide, which shall be incorporated by reference into the committee's guide on policies and procedures.

Publishing Revisions to Policies and Procedures

The Committee on Academic Performance shall notify the membership following final approval by the Management Council and the Board of Directors of any changes to the policies and procedures of the APP.

DATA COLLECTION

Submission/Collection of Institutional Data

Each active member institution is responsible for annually submitting documentation demonstrating its compliance with the APP, including the submission of data for the APR, APC and GSR. The specific requirements of the APP are set forth in Bylaw 23.

Committee on Academic Performance Responsibilities

The Committee on Academic Performance shall oversee the process governing the collection of the APC data used to determine the APR and GSR.

The Committee on Academic Performance also will be responsible for publishing on an annual basis the operating policies and procedures for the collection of APC, APR and GSR data. This document is titled the NCAA Division I Academic Performance Program Data Collection Guide.

Filing Deadlines

1. The APR/APC data is due not later than six weeks (i.e., 42 calendar days) following the first day of each institution's fall term.

2. The GSR data is due not later than June 1 each year.

Legislated Penalties (Bylaw 23.01.3)

An institution that fails to submit complete APR, GSR or APC data for all applicable teams by the prescribed deadline will not be eligible to enter a team or student-athlete in postseason competition, including the national collegiate championships and football bowl games, for the current year and future years until its formal written request appealing the penalty is submitted and approved.

Notice of Penalties

The Committee on Academic Performance will notify in writing the chancellor or president of each institution that fails to submit the required APR, APC or GSR data by the respective prescribed deadlines. This notification will be forwarded not later than 30 days after the expired deadline and will indicate that the institution is subject to the penalties prescribed in Bylaw 23.01.3.

Correcting Data After Submission

Institutions may correct data previously submitted according to the following process.

1. Institutions will submit their request in an e-mail to the designated NCAA research staff member, which should include a general summary of the correction(s) that need to be made to the data (e.g., name of student-athlete, identification number, sport specific changes).

2. The staff will review the requested corrections pursuant to APP policies and APR guidelines.

3. All corrections must be completed within 14 calendar days of receiving verification that usable data was submitted. No extensions or requests to correct data will be approved after this date. If an institution discovers additional corrections after this date, the corrections can be submitted during the correction period the next academic year. Institutions are permitted to request corrections to APR data for all academic year cohorts that comprise the institution's multiyear APR cohort only during the correction period. The corrected data will be considered in the calculation of the most recent APR and any applicable subsequent years.

4. Changes to the academic eligibility status for the preceding (i.e., spring) term must occur not later than the institution's deadline to submit its data for the previous academic year. Changes to the academic eligibility status for any other term (i.e., fall and/or winter) must occur not later than the sixth week of the subsequent term.

Effect of Corrections on Previously Earned Penalties and/or Rewards

Corrections to data for prior years generally will not affect the status of any previously earned penalties or rewards. However, if an institution discovers that a correction to a prior year's data would have resulted in the team not being subject to a previously earned penalty that has not yet been applied, it may request relief from the previously earned penalty. To request relief, an institution must submit a written request to the Committee on Academic Performance Subcommittee on Data Collection and Reporting and provide any necessary supporting documentation. *(Adopted: 1/2007)*

Institutions That Do Not Provide Usable APP Data or Never Request Reinstatement of Championships Eligibility

An institution that submits APC/APR/GSR data subsequent to the submission deadline but never requests reinstatement of championships eligibility will remain ineligible to enter a team or individual student-athlete in an NCAA championship or other postseason competition for the current year and future academic years until its formal written request appealing the penalty is submitted and approved.

An institution that submits unusable APC/APR/GSR data will be provided 14 calendar days to submit corrected data on notification that the data was not usable. If the institution fails to submit corrected data, the institution will be considered to have not appropriately submitted its APR/GSR data and will remain subject to penalties for failing to satisfy the filing deadline.

Institutions or teams that are provisional or reclassifying should refer to the section on membership issues for penalties related to failure to submit usable data, or for submitting data after the deadline.

ACADEMIC PROGRESS RATE

Multiyear APR

The APR is comprised of four years of APR data. Each year, the most current year's data will be added and the oldest year of data will be removed, creating a four-year rolling rate.

Calculating the Multiyear APR

A team's APR will be determined by summing the numerators (e.g., total points earned), including all applicable delayed graduation points and denominators (e.g., total points possible) for all appropriate years and then dividing the overall numerator by the overall denominator to calculate the team's APR. This method will take into account the differences in numbers of student-athletes in the calculation from year to year and will weigh each student-athlete equally.

GRADUATION SUCCESS RATE

The GSR is based primarily on the Integrated Postsecondary-Education Data System (IPEDS) graduation rate, which is defined as a six-year proportion of those student-athletes who graduated versus those who entered an institution. The GSR adds information about transfers in and out of institutions and will be calculated for student-athletes who received athletics grants-in-aid during the academic year in which they entered the institution. For those teams/institutions that do not offer athletically related financial aid, the GSR will be calculated on a subset of recruited student-athletes. This rate differs from the Federal Graduation Rate, because it accounts for student-athletes who transfer into an institution, while discounting student-athletes who withdraw from the institution and would have been academically eligible to compete had they returned. The Federal Graduation Rate still must be reported to the NCAA and to prospective student-athletes. The NCAA will continue to report the Federal Graduation Rate to each of our member institutions in a format that meets the requirements of federal law.

In the past, Division I institutions reported graduation rates data in two separate formats (i.e., IPEDS graduation rates survey form and the graduate rates supplement form). The NCAA previously received data files contained in the graduate rates supplement form directly from the federal government in order to create institution-level reports that are required under the Student Right-to-Know Act. Unfortunately, the federal government is no longer able to provide the NCAA with the raw data files to create these reports. Therefore, institutions must report the data required by the federal government to both the Department of Education and to the NCAA.

The Division I membership passed legislation stipulating that all member institutions provide the information contained in its federal graduate rates supplement form to the NCAA. Additionally, all Division I members are required to provide supplemental information that will allow the NCAA to calculate the GSR. The penalty for not providing data by the due date (June 1 annually) will be ineligibility of an institution's athletics teams and student-athletes for competition in NCAA championships and other postseason competition (e.g., bowl games) conducted during the subsequent academic year and future years until eligibility is reinstated.

DATA ISSUES

CALCULATION, PUBLISHING AND NOTIFICATION OF APR AND GSR

Legislated Responsibilities and Calculation of APR and GSR

The committee will be responsible for publishing on an annual basis the method used to calculate the APR and the GSR. This information is contained in the NCAA Division I Academic Performance Program Data Collection Guide.

Definition of Recruited Student-Athlete (Bylaw 23.02.1)

The APR calculation is based on currently enrolled student-athletes receiving institutional financial aid based in any degree on athletics ability or, for those institutions or teams that do not offer athletics aid, a subset of recruited student-athletes. A recruited student-athlete shall be defined in accordance with Bylaw 13.02.12.1 or as approved by the Committee on Academic Performance.

Discontinued Sports

Institutions that will no longer be sponsoring a specific Division I sport(s) at the varsity level should refer to the section on membership issues.

ALTERNATIVE IDENTIFICATION OF COHORT OR DEFINITION OF RECRUITED STUDENT-ATHLETE

Pursuant to Bylaw 23, the Committee on Academic Performance has the authority to approve an alternative definition of a recruited student-athlete or identification of a cohort of student-athletes to be used to calculate a team's APR. The decision to approve any alternative definition will be based on objective evidence that the NCAA applicable cohort definition does not adequately address the unique characteristics of the applicant institution/conference.

All such requests will be reviewed by the staff and/or the Subcommittee on Data Collection and Reporting.

Application Procedures

A member institution/conference seeking to apply an alternative definition of recruited student-athlete or identification of cohort for purposes of calculating APR and/or GSR shall submit in writing a request to the national office.

All such institutional requests must be signed by the chancellor or president and must set forth the reasons why the institution believes an alternative definition of recruited student-athlete or identification of student-athletes for the APR and/or GSR cohort is warranted. The request also

must include a proposed alternative definition of recruited or identification of student-athletes for the APR and/or GSR cohort.

All such conference requests must be signed by the conference commissioner and must set forth the reasons why the conference believes an alternative definition of recruited student-athlete or identification of an alternative cohort for purposes of calculating APR is warranted. The appeal also must include a proposed alternative definition of recruited or identification of student-athletes for the APR cohort.

In cases where time is of the essence, it is important for the submitting institution or conference to clearly specify the reason(s) the issue may be time sensitive.

Review Procedures

On receipt of the request, the staff will review the information to ensure it is complete and will notify the applicant institution/conference of the name of the staff member handling the request.

The staff has the authority to render a decision for all requests. All staff decisions will be based on the following criteria:

1. Demonstration that the suggested definition is used for other institutional, Association and/or governmental purposes (e.g., NCAA Division I athletics certification, institution or conference data collection);

2. Demonstration that failure to use the alternative definition or identification of student-athletes is inconsistent with the intent of the APP; and

3. Demonstration that the request provides for inclusion of a population of student-athletes actively solicited by the institution to compete on its athletics teams.

The staff and Subcommittee on Data Collection and Reporting have the authority, pursuant to the authority provided by the Committee on Academic Performance to hear, deliberate and decide requests for an alternative definition. After reviewing all information, the staff/subcommittee will render for the current academic year one of the following decisions:

1. **Approval**: The staff/subcommittee determines that the institution's request demonstrated evidence warranting the use of an alternative definition of recruited student-athlete.

2. **Denial**: The staff/subcommittee determines that the institution's request did not demonstrate circumstances warranting the use of an alternative definition of recruited student-athlete. The institution will be responsible for applying the definition of recruited student-athlete noted in Bylaw 13.02.12.1.

3. **Modified Approval:** The staff/subcommittee determines that the institution's request demonstrated evidence warranting the use of an alternative definition of recruited student-athlete; however, the alternative definition recommended by the institution was not sufficient and a modification was necessary. By issuing a modified approval, the staff/subcommittee permits the institution to use the modified alternative definition of recruited student-athlete.

APPEALS/RECONSIDERATIONS OF ALTERNATIVE COHORT DEFINITIONS

Appeals of Staff Decisions

After the staff has acted on a request, the applicant institution/conference may appeal the decision to the Subcommittee on Data Collection and Reporting. The subcommittee's determination shall be final and shall not be subject to further review by any other authority.

The Committee on Academic Performance has authorized the Subcommittee on Data Collection and Reporting to review all appeals and render a decision on behalf of the committee.

Appeal Procedures

All appeals of a staff decision must be filed within 14 calendar days of written notification of the staff's decision. Any appeal filed beyond this period must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the subcommittee shall determine whether or not any appeal filed after 14 calendar days will be considered.

Review Procedures

The subcommittee shall conduct its meetings and deliberations by facsimile, telephone conference, e-mail, Internet or in-person meeting. Deliberations shall involve only subcommittee members and NCAA national office staff.

Reconsideration

After the staff and/or subcommittee have issued a decision, the institution/conference may ask the staff to reconsider its decision if the institution/conference submits new or additional relevant information. Requests with new or additional relevant information may not be heard by the subcommittee until the staff has reviewed and considered the new information.

DATA COLLECTION WAIVERS

WAIVERS/EXTENSIONS OF FILING DEADLINES

Pursuant to Bylaw 23, the Committee on Academic Performance has the authority to grant exceptions/extensions to the filing deadlines prescribed in Bylaw 23.01.3 and in this policies and procedures manual. The decision to waive/extend any deadline will be based on objective evidence that demonstrates extenuating circumstances under which the member institution is unable to meet the required filing deadline.

All requests for waivers/extensions of the filing deadlines will be reviewed by the staff and/or the Subcommittee on Data Collection and Reporting.

Application Procedures

A member institution seeking to waive/extend the prescribed filing deadlines shall submit its request to the NCAA national office via the Committee on Academic Performance portion of the Legislative Services Database for the Internet (LSDB*i*). All requests shall be submitted electronically to the staff using the online application provided by the NCAA. Any request to waive/extend the prescribed filing deadline must be submitted prior to the original filing deadline.

The request submitted by the institution must include the signature page signed by the chancellor or president. The request shall set forth the reasons the institution believes relief from the required filing deadline(s) is warranted for that academic year and shall provide an alternate date for submission. In addition to the completed online application, the institution may submit additional information believed to be relevant to the institution's request.

Further, in cases where time is of the essence, it is important for the submitting institution to clearly specify the reason(s) the issue may be time sensitive.

Review Procedures

On receipt of an institution's request, the staff will review the application to ensure it is complete, notify the applicant institution of the status of the request and identify the staff member handling the request.

The staff has the authority to render a decision for all waiver/extension requests involving the filing deadlines. Staff decisions will be based on the following criteria:

1. Mitigating circumstances and whether or not the mitigating circumstances were within the control of the member institution;

2. Length of requested extension, and

3. Number of prior institutional requests for a waiver/extension of the filing deadlines.

The staff/subcommittee has the authority to hear, deliberate and decide waiver/extension requests. After reviewing all information, the staff/subcommittee will render one of the following decisions.

1. **Approval**: The staff/subcommittee determines the institution's request demonstrated evidence that warranted a waiver/extension of the prescribed filing deadline and permits the institution to supply the required academic data by the deadline the applicant institution requested in its waiver/extension request.

2. **Denial**: The staff/subcommittee determines the institution's request did not demonstrate circumstances warranting a waiver/extension of the prescribed filing deadlines. The institution is responsible for filing all required academic data by the established deadlines and will be subject to legislated penalties for failure to submit the required academic information by the prescribed deadline.

3. **Modified Approval**: The staff/subcommittee determines the institution's request demonstrated evidence warranting a waiver/extension of the prescribed filing deadline; however, the subcommittee/staff determines the length of the extension requested by the institution is excessive or unrealistic. By issuing a modified approval, the staff/subcommittee permits the institution to supply the required academic data by a deadline the staff/subcommittee determines to be reasonable.

APPEALS/RECONSIDERATIONS OF WAIVERS/EXTENSIONS

Appeals of Staff Decisions

After the staff has issued a decision regarding a waiver/extension request, the applicant institution may appeal the decision to the Subcommittee on Data Collection and Reporting using the online appeal module of the LSDB*i* portal. The subcommittee determination shall be final and shall not be subject to further review by any other authority.

The Committee on Academic Performance has authorized the Subcommittee on Data Collection and Reporting to review all data collection waiver/extension appeals and to render a decision on behalf of the committee.

Appeal Procedures

All appeals of a staff decision should be filed within 14 calendar days of written notification of the staff's decision. Any appeal filed after 14 calendar days must include an explanation why the appeal was not filed within the prescribed time period. The chair of the subcommittee shall determine whether or not any appeal filed after 14 calendar days shall be heard.

The subcommittee may conduct its deliberations by facsimile, telephone conference, e-mail, Internet or in-person meeting. Such deliberations shall involve only subcommittee members and NCAA national office staff.

Reconsideration

After the staff and/or subcommittee have acted on a waiver/extension request, the institution may request the staff reconsider its decision if the institution submits new or additional relevant information. Requests with new or additional relevant information may not be heard by the subcommittee until the staff has reviewed and considered the new information.

WAIVER OF FILING DEADLINE PENALTIES (Bylaw 23.3)

After receipt of notification that an institution failed to submit the required APR, APC or GSR data by the prescribed deadline, the institution may seek a waiver of the resulting penalties to the Committee on Academic Performance.

Pursuant to Bylaw 23, the Committee on Academic Performance has the authority to review waivers of the filing deadlines penalties as prescribed in Bylaw 23.01.3. The decision to waive a penalty will be based on objective evidence that demonstrates extenuating circumstances that resulted in the member institution being unable to meet the required filing deadline.

All waivers will be reviewed by the staff and/or the Subcommittee on Data Collection and Reporting.

Application Procedures

A member institution that seeks to waive the penalty for failing to satisfy the prescribed filing deadline(s) shall submit the online waiver application to the national office only after the applicant institution's required APR, APC or GSR data has been submitted to the national office.

All requests shall be submitted online to the staff and must include the signature page signed by the chancellor or president and shall set forth the reasons why the institution believes relief from the applicable penalties is warranted.

In cases where time is of the essence, it is important for the submitting institution to clearly specify the reason(s) the issue is considered to be time sensitive.

Review Procedures

On receipt of an institution's request, the staff will review the application to ensure it is complete and will provide to the institution the name of the staff member handling the request. The staff has the authority to render a decision for all waivers of filing deadline penalties. All staff decisions will be based on the following criteria:

1. Mitigating circumstances and whether or not the mitigating circumstances were within the control of the member institution; and

2. Prior requests for waivers/extensions of the filing deadline penalties.

The staff/subcommittee has the authority to deliberate and decide waiver requests. After reviewing all information, the staff/subcommittee will render one of the following decisions.

1. **Approval**: The staff/subcommittee determines the institution's request demonstrated evidence that warranted relief from the prescribed filing deadline penalties.

2. **Denial**: The staff/subcommittee determines the institution's waiver request did not demonstrate circumstances that warranted relief from the prescribed filing deadline penalties. The institution will be responsible for imposing all legislated penalties for failure to submit the required academic information by the prescribed deadline.

3. **Partial Approval**: The staff/subcommittee determines the institution's request demonstrated evidence that warranted partial relief from the prescribed filing deadline penalties; however, the subcommittee/staff may impose a reduced penalty to be applied by the institution.

APPEALS/RECONSIDERATIONS OF FILING DEADLINE PENALTIES

Appeals of Staff Decisions

After the staff has issued a decision on a waiver request, the applicant institution may appeal the decision to the Subcommittee on Data Collection and Reporting using the online application. The subcommittee's determination shall be final and shall not be subject to further review by any other authority.

The Committee on Academic Performance has authorized the Subcommittee on Data Collection and Reporting to review all waiver requests and to render a decision on behalf of the committee.

All appeals of a staff decision must be requested within 14 calendar days of written notification of the staff's decision. Any appeal filed after 14 calendar days must include an explanation why the appeal was not filed within the prescribed time period. The chair of the subcommittee shall determine whether or not any appeal filed after 14 calendar days will be considered.

The subcommittee shall conduct its deliberations by facsimile, telephone conference, e-mail, Internet or in-person meeting. The deliberations of a request shall involve only subcommittee members and NCAA national office staff members.

Reconsideration

After the staff and/or subcommittee have issued a decision on an institution's request, the institution may request the staff to reconsider its decision if the institution submits new or additional relevant information. Appeals with new or additional relevant information may not be heard by the subcommittee until the staff has reviewed and considered the new information.

REQUESTS FOR ADJUSTMENTS OF APR

Pursuant to Bylaw 23, the Committee on Academic Performance has the authority to provide exceptions or adjustments to the calculation of the APR prescribed in Bylaw 23.02.1. The decision to approve any exception/adjustment to the calculation of the APR will be based on objective evidence that demonstrates that the normal process for accounting for the academic eligibility of the institution's student-athlete(s) and its success in retaining and graduating its student-athletes should not apply. The committee's decision shall be final, conclusive and not subject to further review by any other authority.

The staff and/or the Subcommittee on Data Collection and Reporting will review all requests for exceptions to the calculation of the APR prescribed in Bylaw 23.02.1.

Adjustment Request Procedures

A member institution seeking an exception or adjustment to the normal calculation of the APR shall submit an online application to the national office after it has submitted its APR/APC data for each academic year for which the institution is seeking an adjustment. Requests to adjust the normal calculation of the APR shall be considered for each cohort that comprises the multiyear APR.

All requests shall be submitted to the staff via the LSDB*i* portal within 14 calendar days after the institution has verified that its APR/APC data is accurate. If an institution discovers additional adjustments after this date, they can be submitted during the adjustment period the next academic year. Institutions are permitted to request adjustments for previous academic year cohorts that comprise the institution's multiyear APR cohort only during the adjustment period.

The online adjustment application submitted by the institution will produce a signature page that must be signed by the chancellor or president, or his or her designee. The adjustment application shall set forth the reasons the institution believes that an exception to the normal calculation of the APR is warranted. In addition to the information included on the form, the institution may submit additional information and supporting documentation it believes is relevant to the request. The staff and/or subcommittee may request additional pertinent information before it reaches a final determination.

In some circumstances (i.e., degree program discontinued, dropped sport) no additional documentation must be submitted to the NCAA. In these instances, the AD and the FAR must certify in writing that the student-athlete met the conditions set forth in this section and must maintain the certification on file in the athletics department.

Review Procedures

On receipt of an institution's request, the staff will review the application to ensure it is complete, e-mail the applicant institution the status of the request and identify the staff member handling the request. No final decision will be rendered until the staff has received all required documentation.

The staff has the authority to render a decision for all adjustment requests. Staff decisions will be based on the following criteria:

1. The adjustment directive approved by the committee;

2. Mitigating circumstances and whether or not the mitigating circumstances were within the control of the member institution/team and/or student-athlete(s); and

3. Academic performance of the individual student-athlete.

The staff/subcommittee has the authority to consider, deliberate and decide APR adjustment requests. After reviewing all information, the staff/subcommittee will render one of the following decisions.

1. **Approval:** The staff/subcommittee determined that the institution's request demonstrated evidence that warranted an adjustment of the normal calculation of the APR for particular student-athlete(s).

2. **Partial Approval:** The staff/subcommittee determined that the institution's request demonstrated evidence that warranted partial relief from the normal calculation of the APR. By issuing a partial approval, the staff/subcommittee is adjusting part of the normal calculation of the APR.

3. **Conditional Approval:** The staff/ subcommittee determined that the institution's request demonstrated evidence that warranted an adjustment to the normal calculation of the APR if specifically stated conditions are met by institution/ team(s) and/or student-athlete(s). The staff/ subcommittee will outline such conditions in its decision notification. Institutions/ team(s) and/or student-athlete(s) that fail to meet the stated conditions will result in the decision converting to a denial and the APR being recalculated using the normal method prescribed in Bylaw 23.02.1. In such circumstances, the institution/ team(s) immediately will be subject to any penalties resulting from the recalculation of the APR.

4. **Denial:** The staff/subcommittee determined that the institution's request did not demonstrate circumstances that warrant an exception to the normal calculation of the APR prescribed in Bylaw 23.02.1.

APPEALS/RECONSIDERATIONS OF ADJUSTMENT DECISIONS

Appeals of Staff Decisions

The committee has authorized the subcommittee to consider all appeals of staff decisions involving requests to adjust the normal application of the APR prescribed in Bylaw 23.02.1.

After the staff has issued a decision on an adjustment request, the applicant institution may appeal the decision to the subcommittee. The subcommittee's determination shall be final and shall not be subject to further review by any other authority.

The subcommittee shall conduct its deliberations by facsimile, telephone conference, e-mail or in person. Such deliberations shall involve only subcommittee members and NCAA national office staff members.

Appeal Procedures

A member institution that seeks to appeal a staff decision shall submit the online waiver appeal application to the national office. All appeals shall be submitted using the online procedures provided by the NCAA. The online appeal application will produce a signature page, which must be signed by the chancellor or president or his or her designee and be provided to the national office. The appeal must set forth the specific grounds on which the appeal is based and the rationale for the appeal.

The grounds for appealing a staff decision are limited to the following criteria:

1. The staff deviated from its approved procedures, or

2. The findings of the staff are erroneous.

All appeals of a staff decision must be requested within five calendar days of electronic notification of the staff's decision. Any appeal filed after five calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the subcommittee shall determine whether or not any appeal filed after five calendar days will be considered.

Review Procedures

If a staff decision is appealed, a summary of the case, the institution's notification of appeal and any supporting documentation submitted by the institution will be sent to a member of the subcommittee. The subcommittee member will be responsible to review the institution's appeal. The subcommittee member can affirm the staff's original decision, at which time the appeal is considered denied and final, or request the subcommittee review the appeal. If the subcommittee reviews an appeal, a simple majority will be necessary for a decision.

Reconsideration

After the staff and/or subcommittee have issued a decision on an adjustment request, the institution may request the staff to reconsider its decision if the institution submits new or additional relevant information. The subcommittee may not consider requests with new or additional relevant information until the staff has reviewed the new information.

Effect of Prior Years' Adjustments on Previously Earned Penalties and/or Rewards

Adjustments to data for prior years will not affect the status of any previously earned penalties or incentives. Adjusted data will be considered in the calculation of the most recent multiyear APR and any applicable subsequent years.

However, if an institution discovers that an adjustment to a prior academic year's data would have resulted in the team not being subject to a previously earned penalty that has not yet been applied, it may request relief from the previous penalty. To request relief, an institution must submit a written request to the Subcommittee on Data Collection and Reporting and provide any necessary supporting documentation. *(Adopted: 7/2006; revised 1/2007)*

REVIEW OF APR DATA

All APP data submitted pursuant to Bylaw 23.01.3 must conform to the Committee on Academic Performance's policies and procedures. In order to ensure the uniformity and accuracy of submitted data the committee will review data submitted by selected institutions annually.

The NCAA staff and/or the Subcommittee on Data Collection and Reporting will conduct all reviews of the APP data.

Selection of Institutions for Review

The staff/subcommittee will select institutions for data review based on the following indicators:

1. Comparison of academic rates previously submitted;

2. Warnings generated by the APP data collection program;

3. Manual review of submitted data;

4. Any data irregularities*;* and

5. Random selection.

Additionally, institutions may be selected for review if, during a prior data review it failed to provide documentation to substantiate the information entered into the APP data collection system or if, the institution fails to comply with a required action from a previous data review.

There are no specified guidelines regarding sample size or selection method. Individuals performing the data review will use an appropriate sample size based on professional judgment in the particular circumstances.

Scope of Review

The NCAA Division I Academic Performance Program Data Review Guide outlines all areas that are subject to review. The individual conducting the review will determine which of these areas to include in the review. Depending on the circumstances the reviewer may choose to cover every area or limit the review to particular areas.

Notification

During the spring of each academic year, the NCAA staff will notify in writing the chancellor or president of institutions selected for data review. The written notification will advise the institution of its selection and will provide an overview of the data review process. Additionally, the written notice will require the institution to provide (within seven calendar days of receipt of the written notice) the names of two individuals that will serve as the institutional contacts for the institution throughout the data review.

Institutional Involvement

Institutions will be required to designate a primary and secondary contact. The primary and secondary contacts must be full-time employees of the institution and must have the authority from the institution's chancellor or president to respond on behalf of the institution.

Use of Outside Individuals or Agencies

Institutions may involve individuals or agencies not otherwise employed by the institution on a full-time basis to perform functions associated with the review of APP data. In such cases, the institution's personnel, designated contacts and/or chancellor or president must review and verify the accuracy of all responses and information before submission to the NCAA. Additionally, the institution's personnel, designated contacts and/or chancellor or president must sign all responses and submission to the NCAA that require a signature.

Request for Information and Documentation

After receiving notification of the institutional contacts staff will send the institution a written request for information and documentation. After an institution receives the request for information and documentation, it has four weeks (i.e., 28 calendar days) to submit all requested documentation and information.

The staff is permitted to extend the period for the institution to respond to the request for information and documentation based on the individual circumstances presented by the institution.

On-Campus Review

The staff at any point during the APP data review process may determine that an on-campus review of the institution's APP data is necessary. If an on-campus review is required, staff will inform the institution of the scope of the review and any documents that the staff will need to review.

Preliminary Reporting of Findings

After receipt of the documentation, staff will notify the institution of the extent of the review including, but not limited to, areas to be reviewed and any additional documentation the institution must submit. All additional documentation must be submitted within two weeks (i.e., 14 calendar days) of receipt of notification.

Staff after reviewing the documents submitted by the institution or after completing the on-campus review, will submit a preliminary report summarizing the findings of the review to the

respective institution. The institution may submit a written response to any or all of the staff's findings in the preliminary report. The institution must submit its response within four weeks of receipt of the preliminary report. The staff/subcommittee will not consider any response received after this period.

Staff is permitted to extend the period for the institution to respond to the preliminary report based on the individual circumstances presented by the institution.

Failure to Comply with Staff and/or Subcommittee Requests

If the institution fails to provide information or documentation that the staff/subcommittee has requested from the institution within the stated period, the institution's data will be considered invalid and the institution will be considered to have not submitted APR/APC and/or IPEDS and GSR and will be ineligible for any NCAA championship or other postseason competition until the requested information or documentation is provided.

Reporting of Findings to Subcommittee

After receiving the institution's response to the staff's preliminary report, staff will forward to the subcommittee its preliminary report, any institutional responses to the staff's preliminary report and a list of issues from the staff's preliminary findings that have been resolved.

Subcommittee Review

The subcommittee will review the staff's preliminary report, any applicable institutional responses if provided and the list of resolved issues. After reviewing this information, the subcommittee will provide the institution with a final report that will provide the following information for each area reviewed:

1. The area being reviewed;

2. The subcommittee's findings regarding the data in that particular area; and

3. The subcommittee's conclusions regarding its findings and any action for the institution to take regarding the data.

The subcommittee may recommend the institution take any or all of the following actions:

1. **No Action Required.** Based on the results of the review, the subcommittee considers the institution's APP data in the area reviewed to be in substantial conformity with applicable NCAA legislation and the committee's policies and procedures and the institution is not required to take any action regarding its APP data.

2. **Recommended Action.** Based on the findings of the review, the subcommittee considers the institution's APP data in the particular area to be in general conformity with applicable NCAA legislation and the committee's policies and procedures, but recommends the institution implement steps to ensure that the institution's APP data remains in conformity with all applicable legislation and policies and procedures. These steps may include, but are not limited to:

a. Changes to policies;

b. The creation of policies; and/or

c. Providing additional documentation or information.

3. **Required Action.** Based on the findings of the review, the subcommittee does not consider the institution's APP data in a particular area to be in conformity with applicable NCAA legislation and the committee's policies and procedures. The institution is required to take one of the following actions regarding the data:

a. Make required changes for data submitted in the future;

b. Amend previously submitted data; or

c. Amend previously submitted data and make required changes for data submitted in the future.

Additionally, the subcommittee may require the institution to change and/or create policies regarding the compilation, review and submission of APP data, provide additional documentation or information and/or require the institution's data in this area to be reviewed during a subsequent data review.

If the institution fails to take the required action within the stated period, the institution's data will be considered invalid and the institution will be considered to have not submitted APR/APC and/or IPEDS and GSR and will be ineligible for any NCAA championship or other postseason competition until the required action is taken.

The subcommittee's recommendations are final and are not subject to further review. The subcommittee will provide the committee with an aggregate report of its findings and recommendations on an annual basis.

Required Changes to Submitted Data

If one of the required actions the institution must take based on the recommendations of the committee is amending previously submitted data, any resulting change to the institution's APR and/or GSR will not affect the status of any previously earned contemporaneous and/or historical penalty.

Rules Violations

The staff/subcommittee will advise the institution of any information discovered during the review concerning possible violation(s) of NCAA legislation that may affect the accuracy and/or integrity of the institution's APP data. The staff/subcommittee will also advise the institution of its obligation to self-report violations. The subcommittee may delay issuing all or part of its final report until the institution has determined whether a violation has occurred and the effect, if any, the violation has on the institution's APP data.

The staff/subcommittee may refer potential violation(s) of NCAA legislation that may affect the accuracy and/or integrity of the institution's APP data to the NCAA enforcement staff for review. If the staff/subcommittee refers a potential violation to enforcement, the subcommittee may delay issuing all or part of its final report until the institution has determined whether a violation has occurred and the effect, if any, the violation has on the institution's APP data. *(Adopted: 7/2006; Revised: 4/2007)*

INTERPRETATIONS

Responsibilities and Authority (Bylaw 23.1.2)

The Committee on Academic Performance shall oversee all aspects of the APP. These responsibilities include interpreting all APP legislation and polices and procedures, including, but not limited to Bylaws 23, 15.5.7, 15.01.8 and 18.4.2.3.

The Committee on Academic Performance has exclusive authority to interpret and provide written interpretations for all aspects of the APP. Neither the NCAA Division I Legislative Review/Interpretations Committee, nor the NCAA Division I Management Council Administrative Review Subcommittee has the authority to provide any type of relief or render a decision for a request that involves legislation and/or policies and procedures relative to the APP.

The Committee on Academic Performance shall render decisions related to legitimate interpretative inquires regarding the application of APP legislation and polices and procedures. The committee does not have the authority to make or change legislation, but shall interpret legislation and policies consistent with its intent.

The Committee on Academic Performance also shall consider and recommend editorial revisions and official interpretations it has issued for inclusion into the NCAA Division I Manual and will review all related staff interpretations to maintain the integrity of the interpretations process.

Staff and Committee Interpretations/Legislation Review

1. **Staff Review**. All interpretative requests must be forwarded in writing to the staff liaisons to the Committee on Academic Performance. The staff liaisons will review each request and, if possible, will provide a written response. If appropriate, the staff will issue a staff interpretation. The Committee on Academic Performance or one of its subcommittees will review all staff interpretations.

2. **Committee Review**. If the staff is unable to render a decision or if the issue is of national significance, the staff may forward the interpretative request to the Committee on Academic Performance and/or a subcommittee of Committee on Academic Performance based on the topical nature of the request. The committee and/or subcommittees shall review the following issues:

a. **Subcommittee on Data Collection and Reporting**: All issues related to the following: defining the APR cohort, filing APR, APC or GSR data, notification of Occasion-One and -Two Historical Penalties and contemporaneous penalties, appeals/extension requests and all other matters referred to the subcommittee by the Committee on Academic Performance chair for review.

b. **Subcommittee on Appeals**: All issues related to the imposition and/or appeal of contemporaneous penalties and Occasion-One and -Two Historical Penalties, any other matters related to appeals (except for Occasion-Three and –Four Historical penalties) and all other matters referred to the subcommittee by the Committee on Academic Performance chair for review.

c. **Full Committee**: All issues related to the historical penalties and rewards structure. All issues related to the imposition and appeal of Occasion-Three and -Four Historical Penalties. In addition, the Committee on Academic Performance will be the final authority to hear appeals of subcommittee interpretations, as well as to review all subcommittee interpretations. *(Revised: 4/2007 effective 4/2007)*

Review Process

Generally, the subcommittee will review interpretative requests in the following situations:

1. Referrals from the NCAA membership services staff regarding the application of legislation, other interpretations, and/or policies and procedures.

2. Referrals from Division I governance entities (e.g., cabinets/committees) of issues related to the application of legislation and/or policies and procedures.

3. A request by a member institution or conference to review an interpretation provided by the membership services staff or the application of the APP legislation and/or policies and procedures, provided the legislation, policies or other official interpretations do not address the issue.

When necessary, member institutions and/or conferences must make all interpretative requests prior to filing an appeal of an APP penalty. Further, the interpretations process must be complete, including final review of any interpretive appeals, prior to proceeding with a related appeal of any penalties (e.g., contemporaneous or historical penalties). Once an appeal has been filed, it will be assumed that the institution does not have any outstanding interpretative questions or concerns related to the imposed penalties.

Required Documentation

Interpretative requests from a member institution or conference must be submitted in writing. Requests from a member institution may be submitted by the institution's conference or by one of the five individuals authorized to request such interpretations on behalf of the institution (i.e., chancellor or president, faculty athletics representative, athletics director, senior woman administrator or compliance coordinator).

When seeking an interpretive clarification, an institution or conference must submit an interpretive request and supporting documentation outlining the issue in question. The request must outline the limitations in the applications of current legislation and/or official interpretations to the institution's specific circumstances.

Meeting Protocol

Meetings may occur in person, by teleconference, by e-mail or by any other means deemed appropriate by the chair. The respective subcommittee or committee shall meet as often as necessary during the academic year to review interpretative issues related to the application of legislation and/or policies and procedures. All subcommittee decisions will be reviewed by the full committee.

All materials provided by the entity requesting the interpretation, along with a summary/background information sheet prepared by the staff, shall be forwarded to the appropriate subcommittee prior to the request being reviewed.

The staff liaison will provide a brief summation of the issue and will provide any legislative or interpretative assistance as needed or requested by the committee/subcommittee. Only the staff

liaisons and committee or subcommittee members shall participate in review of the issue, unless additional individuals are invited to be on the call by the chair of the subcommittee or committee.

In order to for the committee or subcommittee to deliberate and render a decision, a quorum of more than 50 percent of the committee or subcommittee members eligible to vote must be present.

The conflict of interest section of this manual applies to the committee members' involvement in interpretive matters.

Issuance of Decisions

Interpretations issued by the committee/subcommittee shall be binding immediately on notification to the affected institution or conference. Institutions will be notified initially by telephone and subsequently in writing after the committee/subcommittee's minutes of the meeting have been finalized. All other member institutions are bound by the committee/subcommittee's interpretation after publication and circulation to the membership. If an issue is of national significance, an official interpretation shall be issued and published on the LSDB*i*.

Types of Interpretations

The committee/subcommittee shall issue an official interpretation only when it is determined by that group that the issue is one of national significance. When an official interpretation is issued, it will be issued as either a confirmation or determination. Listed below is the distinction between the two.

1. A confirmation is a verification of the legislation and or policies and procedures. The confirmation is responsive to an inquiry, and is binding on all institutions for present and past actions.

2. A determination is an interpretation issued when an issue or fact is not clearly addressed by the legislation and/or policies and procedures. It is binding on the institution making the request and other institutions once it is published to the Division I membership.

Review/Appeals

The Committee on Academic Performance shall review all interpretations issued by the subcommittees and may approve, reverse or modify such interpretations. A member institution or conference may appeal a decision of the subcommittee(s) to the Committee on Academic Performance within 30 calendar days following the subcommittee's decision. Such appeals must

be submitted in writing by the institution's chancellor or president, faculty athletics representative or director of athletics and must set forth an interpretative argument as to why the decision of the subcommittee is erroneous.

An interpretive decision of the Committee on Academic Performance is final and no additional appeal opportunity exists for a member institution or conference.

Ex Parte Communication

No member(s) of the committee/subcommittee shall be contacted or shall contact, individually or collectively, any representatives or involved individuals of a member institution or conference that have or will submit an interpretative request in advance of the committee/subcommittee discussing and rendering a final decision.

MEMBERSHIP ISSUES

Current NCAA Division I Members

Any NCAA member institution that sponsors a Division I sport is subject to the APP. This includes all active Division I members and multidivisional institutions sponsoring Division I sports.

New Sports Teams

Division I institutions that add a team are subject to contemporaneous penalties and are eligible for rewards (e.g., Top Ten Public Recognition Program) after the collection of two years of required data (e.g., APR, APC). Historical penalties will be assessed after the collection of three years of required data.

Institutions Transitioning Into Division I (Reclassifying or Provisional)

Institutions or teams that are provisional members or in the process of reclassifying to Division I are subject to the APP. Such institutions shall be subject to contemporaneous penalties and rewards after the collection of two years of required data (e.g., APC/APR/GSR). These institutions shall be subject to historical penalties after the collection of three years of the required data. Institutions in the process of reclassifying to Division I must submit the legislatively required data for Division I at the point in the membership process when the institution is required to be in compliance with Division I legislation. The penalty for a reclassifying or provisional member institution that fails to submit data is notification to the NCAA Division I Management Council Membership Subcommittee, rather than the championship penalties that exist for current Division I members.

For example, if an institution becomes subject to the Division I legislation beginning in the 2004-05 academic year, it is required to submit the required GSR data for the first time based on student-athletes entering the institution in fall 2004. Such institutions are not required to submit GSR data from years for which they were members of NCAA Divisions II or III.

Institutions or Teams Transitioning From Division I or Discontinuing a Division I Sport

Institutions or teams transitioning from Division I or discontinuing a Division I sport are not required to submit APP data beginning the academic year the institution has publicly announced its intention to transition from Division I or its intention to discontinue a Division I sport. Additionally, the APR for those teams will be removed from the institution's APR report. The institution must provide the staff with written notification of the timeline and the effective date of the transition. However, if an institution later rescinds its decision and never discontinues the sport or transitions the athletics program or sport, APP data from any year(s) that was previously excluded must be submitted and any applicable penalties must be taken.

Effect of Penalties on Minimum Financial Aid Requirements

The APP includes financial aid penalties (i.e., contemporaneous or historical) that may result in an institution no longer meeting Division I minimum financial aid requirements. The penalty for failure to meet the Division I financial aid minimums as set forth in Bylaw 20.2.5.1.4. is ineligibility for NCAA championships and postseason contests. If an institution believes it has sufficient mitigating factors, it may seek relief by filing a waiver of the minimum financial aid requirement to the Membership Subcommittee (Bylaw 20.9.1.2.10).

Restricted-Membership Penalty

Occasion-Four Historical Penalties will result in an institution being placed in restricted membership status. Restricted membership is a membership classification status assigned to an institution that fails to comply with the minimum requirements of its division (e.g., financial aid, academic requirements). (Bylaw 20.02.4). An institution placed in restricted membership loses eligibility for a number of Division I membership privileges (e.g., eligibility for NCAA championships and postseason bowl games for all teams at the institution, revenue distribution). If at the end of the one-year restricted membership period, the penalized team(s) do(does) not improve enough to meet the benchmarks, the institution shall be reclassified to corresponding membership status. (Bylaw 23.2.1.2.4).

For Division II and Division III institutions that sponsor a Division I sport(s), the restricted membership penalty only applies to the Division I sports. Restricted status would not extend to the Divisions II or III portion of the athletics program.

PENALTIES AND REWARDS

Overview

The APP is the result of an April 2002 Board of Directors resolution outlining the academic reform package and instructing that a system of incentives and disincentives be developed that rewards those sports teams that do well academically and penalizes those that do not.

The penalties and rewards structure is directly tied to the benefits of the Association. For those sports teams and athletics programs that perform at an unacceptable level academically, those assets will be denied or restricted.

Guiding Principles

Several key principles provide a guide to the penalty and rewards structure:

1. The goal should be first and foremost to encourage improved academic performance of all student-athletes on all sports teams so the mission of the NCAA and the commitment to student-athletes can better be realized.

2. The structure must appropriately penalize those programs that have a demonstrated history of academic underachievement (e.g., habitual offenders). Conversely, those institutions performing at a significantly high level academically should be rewarded.

3. All Division I athletics programs and sports teams will be subject to the penalty and reward structure. This includes Division I sports offered at Divisions II and III institutions.

Evaluating a Team's Academic Success

The penalties and rewards system will be tied to meaningful measures of academic performance, which includes performance as determined by the APR and the GSR.

Three years of APR data will be collected for each team before the full array of historical penalties will be implemented. Data collection began with the 2003-04 academic year and will result in completion of the four-year rate for most teams by fall 2007.

The Board of Directors has the authority to endorse an appropriate level or rate of acceptable academic performance (taking into consideration each institution's mission, as well as an absolute minimum level of acceptable performance) and also will determine the academic level at which penalties should be applied. The Board of Directors also will approve the level of academic performance that should be rewarded.

Squad-Size Adjustment and Determination of Penalties

While ultimately the APR for each team will be a four-year rolling rate, contemporaneous penalties are assessed after the collection of two years of APR/APC data, and historical penalties after the collection of three years of data. A squad-size adjustment is used to treat squads fairly and is consistent with standard practice before assessing penalties based on limited data. The squad-size adjustment is made relative to the number of student-athletes in the APR calculation, thus accounting for possible fluctuation in the short term due to squad size. There is no change to the team's raw APR or to the penalty benchmarks. Rather, consideration will be given to squad size to avoid unfair penalties.

A consistent margin of error set at a confidence interval of 84 percent has been applied to determine each team's subjectivity to contemporaneous and historical penalties. This means that the upper-confidence boundary of a team's APR must be below penalty benchmark for the team to be subject to any applicable penalties.

Application of the Squad-Size Adjustment

Only teams that have not yet submitted four years of data will use the squad-size adjustment in determining any APP penalties. Once a team has established a four-year APR, the squad-size adjustment will no longer be considered, unless it has a four-year APR cohort of less than 30 student-athletes.

NCAA DIVISION I ACADEMIC PROGRESS RATE IMPROVEMENT PLANS

Overview

For a detailed overview related to APR improvement plans, please refer to the NCAA Division I Academic Performance Program Penalties Guide.

Requirement

The Committee on Academic Performance requires an institution to develop an APR improvement plan for all teams with a multiyear APR less than 925. Teams with less than four years of data submitted and teams with less than 30 data points and squad size adjusted APR above 925 will not be subject to this requirement.

Institutions must submit an APR improvement plan to the national office for any team(s) with a multiyear APR less than 900. Further, institutions must submit copies of all previous APR improvement plans, progress reports of those plans and any intended plan amendments. Institutions with teams with less than 30 data points that have a squad size adjusted APR above

900 are not required to submit the APR improvement plan for those teams. *(Adopted: 4/200,7 effective 4/2007)*

Additionally, APR improvement plans may be required to be submitted as part of a contemporaneous-penalty or historical-penalty waiver. Further, they may be reviewed during compliance reviews, institutional self-studies and the athletics certification process.

Failure to Develop a Required APR Improvement Plan

An institution that does not create an APR improvement plan for a team with an APR less than 925, or that does not submit an APR improvement plan for a team with an APR less than 900, will be required to report a violation to the NCAA enforcement staff. *(Adopted: April 2007, effective 4/2007)*

CONTEMPORANEOUS PENALTIES

Overview

The APP is meant to help ensure that the Division I membership is dedicated to providing student-athletes with an exemplary educational experience. However, the implementation of historical-penalties requires three years of data collection before penalties are issued. Contemporaneous penalties were designed to provide more immediate support to the behavioral shift that is necessary to assist student-athletes in meeting the new progress-toward-degree standards (e.g., 40/60/80, grade-point-average requirements), which were effective for those student-athletes first entering a collegiate institution on or after August 1, 2003.

The contemporaneous penalties are related to an institution's ability to re-award total financial aid countable against team limits previously awarded to a student-athlete who left the institution and would not have been academically eligible (e.g., per NCAA, conference and/or institutional rules) had he or she returned.

Legislated Penalties (Bylaw 15.5.7)

Any team with an APR below the established benchmark of 925 shall not re-award any financial aid countable toward the team's maximum limit that previously was awarded to the student-athlete who renders himself or herself academically ineligible and does not remain enrolled full-time at the institution for any reason at any time.

Notification of Penalties

An institution is considered to have official notification of its contemporaneous penalties when the contemporaneous-penalty report is first made available to the institution on the password-protected APP Web site. Any team that has a contemporaneous penalty becomes subject to it on the date the report is available. The report will provide the institution with the exact penalty values for each team subject to contemporaneous penalties

Determination of Penalty

Once a team's APR is determined to be below 925, regardless of the reason(s) for withdrawal (e.g., personal reasons, professional athletics career), the departure of student-athlete(s) who would not be academically eligible on return to the institution will result in the application of this penalty, unless the student-athlete(s) meets an exception.

Squad-Size Adjustment

Teams with less than four years of APP data submitted and teams with less than 30 data points in the four-year APR cohort will be subject to contemporaneous penalties based on the squad-size adjusted APR. The following chart provides the approximate minimum APR required, based on squad size, such that the team's squad-size adjusted APR will be above 925.

Number of student-athletes in multiyear APR cohort* (N)	**Approximate minimum APR to meet squad-size adjusted APR >=925**
2	740
3	775
4	795
5	810
6	820
7	830
8	835
9	840
10	845
11-12	850
13-14	855
15-16	860
17-19	865
20-22	870

23-27 28-34	875 880
35-43	885
44-56	890
57-76	895
77-110	900
111-174	905
175-300	910

Value of the Contemporaneous Penalty

The value of the contemporaneous penalty shall be based on each student-athlete's total financial aid countable against team limitations, not just the value of the athletics portion of the student-athlete's financial aid package.

Annual Maximum Value of Contemporaneous Penalties

Contemporaneous penalties apply up to, but not more than, approximately 10 percent of the maximum financial aid team limit in that sport. This includes rounding up to the next whole number for head-count sports. A chart listing the maximum value of contemporaneous penalties incurred in a single academic year for each sport is provided in the NCAA Division I Academic Performance Program Penalties Guide.

Application of Contemporaneous Penalties in Sports with Multiple Team Financial Aid Limits

Contemporaneous penalties are applied to all team financial aid limits, including overall-counter, initial-counter, and equivalency limits based on the legislated financial aid limits for the sport. For examples of how the penalty applies to teams with multiple financial aid limits, please refer to the NCAA Division I Academic Performance Program Penalties Guide.

Exceptions to the Application of Contemporaneous Penalties

Bylaw 15.5.7.2 provides three exceptions to the application of the contemporaneous penalty:

1. The student-athlete has exhausted eligibility per Bylaw 15.5.1.6 and as further defined by an official interpretation [reference: 1/9/05, Item No. 1].

2. The student-athlete is receiving institutional financial aid after becoming permanently ineligible per Bylaw 15.5.1.7.

3. The student-athlete is a medical noncounter per Bylaw 15.5.1.3.

An additional exception to the application of contemporaneous penalties is provided for a student-athlete who is not academically eligible and withdraws from the institution, but subsequently re-enrolls at the institution the first term of the subsequent academic year.

Applying Contemporaneous Penalties – Exhausted Eligibility

The Committee on Academic Performance issued an official interpretation (reference: 01/09/05, Item No. 1) determining that an institution may re-award the countable financial aid of a student-athlete who has no eligibility remaining, in the sport in which aid was awarded, in subsequent academic years. For example, any countable financial aid awarded to a football student-athlete who exhausts his eligibility for football competition may be re-awarded to another student regardless of the team's APR or the departing student-athlete's academic eligibility or retention status in a subsequent academic term or terms.

The committee also noted that although the countable financial aid may be re-awarded, the student-athlete shall be used in calculating the team's APR for each term in which he or she received the aid, including the last term before withdrawal. This interpretation, in conjunction with Bylaws 15.5.7.2 and 15.5.1.6, would exempt the countable aid received by the following student-athletes from the contemporaneous penalty.

1. A student-athlete who does not use all of his or her seasons of competition but exhausts his or her five-year clock.

2. A partial or nonqualifer who fails to earn a fourth season of competition by completing 80 percent of his or her degree program prior to the start of his or her fifth year.

3. A student-athlete who has used his or her fourth season of competition. *(Revised: 4/2007)*

Re-Awarding Athletics Aid for a Team Subject to Contemporaneous Penalties

Athletics aid subject to a contemporaneous penalty may not be re-awarded to any student-athlete (continuing or incoming). The penalized amount must be deducted from the maximum team limit, and the excess of the penalized team limit may not be re-awarded to any student-athlete.

Timeline to Impose the Penalty

Only those teams with an APR below 925 can be subject to contemporaneous penalties (Bylaw 15.5.7). When a student-athlete on such a team fails to meet NCAA, conference and/or institutional academic-eligibility requirements and withdraws from the institution, his or her total financial aid countable against team limits may not be re-awarded for a period of one year. This penalty must be imposed by the institution at the next available opportunity but not later than

two-academic years after the student-athlete's departure. For examples, please refer to the NCAA Division I Academic Performance Program Penalties Guide.

An official interpretation (reference: 1/21/04, Item No. 1) defines "the next available opportunity" as the academic year immediately following the ineligible student-athlete's departure, unless the institution/team already has received written notification(s) of acceptance of its offers of athletics aid (as evidenced by signed, valid National Letter of Intent (NLI) or offers of institutional financial aid) that prevents the institution from applying the contemporaneous penalty without taking away a scholarship from an incoming freshman or transfer student-athlete.

Conditionally Approved Contemporaneous-Penalty Waivers

Teams who initially received a conditionally approved contemporaneous-penalty waiver but fail to satisfy the condition must impose the contemporaneous penalty at the next available opportunity, defined as follows:

> "The academic year the institution is notified of its failure to satisfy the condition(s) unless a prospective student-athlete (i.e., high school, two-year or four-year college transfer) who has signed a financial aid agreement prior to the institution receiving notification of its failure to satisfy the condition(s) of its conditionally approved contemporaneous-penalty waiver will be impacted. If the penalty cannot be imposed in the academic year the team receives notification, it must be imposed the following academic year."

Failure to Impose a Contemporaneous Penalty Within the Prescribed Timeline

Institutions that fail to impose a contemporaneous penalty within the prescribed time period are required to report a violation of Bylaw 15.5.7 to the NCAA enforcement staff.

WAIVERS OF CONTEMPORANEOUS PENALTIES

Pursuant to Bylaws 23 and 15.5.7.3, the Committee on Academic Performance has the authority to waive the application of Bylaw 15.5.7. The committee's decision shall be final, conclusive and not subject to further review by any other authority (Bylaw 15.5.7.3).

The staff and/or the Committee on Academic Performance Subcommittee on Appeals will review all waivers of Bylaw 15.5.7.

Waivers Procedures

A member institution that seeks to delay imposing or to waive the application of Bylaw 15.5.7 shall submit an online waiver application to the national office only after it has received electronic notification indicating that one or more of the institution's teams are subject to the penalties imposed per Bylaw 15.5.7.

Waivers of contemporaneous penalties must be filed within 14 calendar days of the institution's completion of the correction period, or after receiving a final decision of all adjustment requests. All requests shall be submitted electronically to the national office staff via the LSDB*i* portal on the online application provided by the NCAA.

The online waiver application submitted by the institution will produce a signature page that must be signed by the chancellor or president. The waiver application shall set forth the reasons the institution believes that application of Bylaw 15.5.7 is not warranted. In addition to the information included on the form, the institution may submit additional information and supporting documentation it believes is relevant to the case. The staff and/or subcommittee may request additional pertinent information before a final determination is made.

Review Procedures

On receipt of an institution's request, the staff will review the application to ensure it is complete, e-mail the applicant institution the status of the request and identify the staff member handling the request. No final decision will be rendered until all required documentation has been received by the staff.

The staff has the authority to render a decision for all waiver requests. Staff decisions will be based on some or all of the following criteria:

1. The waiver directive approved by the Committee on Academic Performance;

2. Mitigating circumstances and whether or not the mitigating circumstances were within the control of the member institution and/or student-athlete(s);

3. Historical academic performance of the respective team and/or individual student-athlete;

4. Size of variance between the team's APR and the penalty benchmark;

5. Prior academic waivers granted (i.e., initial-eligibility and progress-toward-degree waivers) for affected student-athletes;

6. Review of the variables related to the institution's mission and its relationship to the team's APR; and

7. Development and submission of an APR improvement plan.

The staff/subcommittee has the authority to consider, deliberate and decide waiver requests. After reviewing all information, the staff/subcommittee will render one of the following decisions.

1. **Approval:** The staff/subcommittee determines the institution's request demonstrated evidence that a waiver of Bylaw 15.5.7 was warranted.

2. **Partial Approval:** The staff/subcommittee determines the institution's request demonstrated evidence warranting partial relief from the prescribed penalties. By issuing a partial approval, the staff/subcommittee is permitting the institution to partially waive the application of the penalties of Bylaw 15.5.7.

3. **Conditional Approval:** The staff/subcommittee determines the institution's request demonstrated evidence that a waiver of Bylaw 15.5.7 was warranted if specific conditions are met by the institution/team. Such conditions will be outlined by the staff/subcommittee in the decision notification. Institutions/teams that fail to meet the stated conditions will result in the decision converting to a denial and the waived penalties being implemented.

4. **Denial:** The staff/subcommittee determines the institution's request did not demonstrate circumstances warranting a waiver of Bylaw 15.5.7. The institution will be responsible for applying the penalty or penalties.

APPEALS/RECONSIDERATIONS OF WAIVER DECISIONS

Appeals of Staff Decisions

The Committee on Academic Performance has authorized the Committee on Academic Performance Subcommittee on Appeals to consider all appeals of staff decisions involving Bylaw 15.5.7.

After the staff has issued a decision on a waiver request, the applicant institution may appeal the decision to the subcommittee. The subcommittee's determination shall be final and shall not be subject to further review by any other authority.

Further, the subcommittee may conduct its deliberations by facsimile, teleconference, e-mail, Internet or in-person meetings. Such deliberations shall involve only subcommittee members

and NCAA national office staff members. A quorum for subcommittee review of appeals shall be a majority of subcommittee members present and voting.

Appeal Procedures

A member institution seeking to appeal a staff decision shall submit the online waiver appeal application to the NCAA national office. All appeals shall be submitted using the LSDB*i* portal. The online appeal application will produce a signature page that must be signed by the chancellor or president and provided to the national office. The waiver appeal shall set forth the rationale for the appeal.

All appeals of a staff decision should be filed within seven calendar days of electronic notification of the staff's decision. Any appeal filed after seven calendar days must include an explanation why the appeal was not filed within the prescribed time period. The chair of the subcommittee shall determine whether or not any appeal filed after seven calendar days will be considered.

Reconsideration

After the staff and/or subcommittee have issued a decision on a waiver request, the institution may ask the staff or subcommittee to reconsider its decision if the institution submits new or additional relevant information. Requests with new or additional relevant information may not be considered by the subcommittee until the staff has reviewed the new information.

REVIEW OF CONDITIONALLY APPROVED CONTEMPORANEOUS PENALTY WAIVERS—Determining whether the condition(s) was satisfied

The waiver case staff has authority to review conditionally approved waivers to determine whether the condition(s) was satisfied. If the condition(s) is not satisfied, the institution has the opportunity to explain to the staff why it failed to meet the condition(s) or why it believes it did not meet the stated conditions. The staff’s decision may be appealed to the committee. The committee’s decision is final and not subject to further review by any other authority.

Staff Review

The waiver case staff shall review the APP data and other relevant information of all institutions that had conditionally approved waivers from the previous year to confirm whether the stated condition(s) has been satisfied. The staff will conduct this review once the APR data submission correction and adjustment phases are complete.

If the stated condition(s) has been satisfied, the waiver case staff will notify the institution, in writing, that the contemporaneous penalty has been waived.

If the condition(s) is not satisfied, the waiver case staff will provide written notification that the conditionally approved waiver has not been satisfied and the team is required to impose the contemporaneous penalties at the next available opportunity. Furthermore, the staff will notify the institution that it may provide an explanation regarding why it failed to satisfy the condition(s) or why it believes it did meet the stated conditions(s).

The request must be submitted electronically to the NCAA national office via the LSDBI portal. Requests must be submitted within seven calendar days after the notification that the condition(s) has not been met and the institution is subject to the penalty. The online application will produce a signature page that must be signed by the institution's chancellor or president.

The request must set forth the reasons why the institution failed to meet its condition(s) or why it believes it did meet the stated condition(s) and as a result why the contemporaneous penalty is not warranted. The institution may submit additional information that it believes is relevant to the case. The committee may request additional pertinent information before a final determination is made.

Any request filed after seven calendar days must include an explanation of why the request was not filed within the prescribed time period. The chair of the committee must determine whether any request filed after seven calendar days will be considered.

Review Standard

The staff may grant relief based on some or all of the following criteria:

1. Mitigating circumstances and whether the mitigating circumstances were within the control of the institution and/or student-athlete(s).

2. If multiple conditions were assigned, the number of conditions met and historical-academic performance of the respective team.

3. Size of variance between the team's most recent single-year APR and the APR required as the condition.

4. Improvement of the team's APR, eligibility and/or retention APR.

5. Review of the variables related to the institution's mission and resources and its relationship to the team's APR.

6. Evaluation of implementation of institution's previously submitted APR improvement plan and revisions to plan to address current issues impacting APR.

7. Any additional information provided by the institution.

Deliberations and Decisions

After reviewing all the information, the staff may render one of the following decisions:

1. **Approved:** The staff determines that the condition(s) is satisfied or the explanation provided by the institution is sufficient to satisfy the condition(s) and as a result, the institution is not subject to the contemporaneous.

2. **Denied:** The staff determines that the institution did not present circumstances that warrant relief form the staff conditional approval and as a result, the institution is subject to the contemporaneous penalties.

Committee Review

After the staff has rendered a decision, the institution may appeal the decision to Committee on Academic Performance. The committee's decision is final and is not subject to further review by any other authority.

The request must be submitted electronically to the NCAA national office via the LSDBI portal. Requests must be submitted within seven calendar days after the notification that the condition(s) has not been met and the institution is subject to the penalty. The online application will produce a signature page that must be signed by the institution's chancellor or president.

The request must set forth the reasons why the institution failed to meet its condition(s) or why it believes it did meet the stated condition(s) and as a result why the contemporaneous penalty is not warranted. The institution may submit additional information that it believes is relevant to the case. The committee may request additional pertinent information before a final determination is made.

Any request filed after seven calendar days must include an explanation of why the request was not filed within the prescribed time period. The chair of the committee must determine whether any request filed after seven calendar days will be considered.

Review Standard

Committee decisions will include consideration of the following:

1. Mitigating circumstances and whether the mitigating circumstances were within the control of the institution and/or student-athlete(s).

2. If multiple conditions were assigned, the number of conditions met and historical-academic performance of the respective team.

3. Size of variance between the team's most recent single-year APR and the APR required as the condition.

4. Improvement of the team's APR, eligibility and/or retention APR.

5. Review of the variables related to the institution's mission and resources and its relationship to the team's APR.

6. Implementation of the team's previously submitted APR Improvement Plan and assessment and development of an updated plan.

Conflict of Interest

A Committee on Academic Performance member must recuse himself or herself from participation in a review in which he or she is personally connected with an institution or conference. A Committee on Academic Performance member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the review. It is the responsibility of the Committee on Academic Performance member to remove himself or herself if a conflict exists. Institutional objections to a Committee on Academic Performance member participating in the review must be raised to the Committee on Academic Performance chair or NCAA staff member prior to review.

In the event that the Committee on Academic Performance chair must recuse him or herself or is unable to participate in the waiver, the remaining members must vote, by simple majority, to determine who will serve as "acting chair."

Deliberations and Decisions

The committee will receive the original staff conditional approval decision, staff decision regarding condition(s) not being met, the institution's request and supporting documentation and the team(s) APP data.

The committee may conduct its deliberations by facsimile, teleconference, electronic mail, Internet or in-person meeting. Such deliberations shall include only committee members and NCAA staff members supporting the committee.

A simple majority of the committee members present and voting is necessary for a decision. The chair, or acting chair, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

After reviewing all information, the committee will render one of the following decisions:

1. **Approved:** The committee determines that the condition(s) is satisfied or the explanation provided by the institution is sufficient to satisfy the condition(s) and as a result, the institution is not subject to the contemporaneous penalties.

2. **Denied:** The committee determines that the institution did not present circumstances that warrant relief form the staff conditional approval and as a result, the institution is subject to the contemporaneous penalties.

If relief is not provided, the institution will be notified to impose the contemporaneous penalty at the next available opportunity. Additionally, if the team has become subject to a contemporaneous and/or historical penalty in the current academic year, the Committee on Academic Performance has the discretion to provide flexibility to institutions regarding the timeframe for imposing penalties. Specifically, the committee may decide to permit an institution to impose the penalties over a multiyear period. The committee may decide what penalties to extend and when. Such determinations will be made as part on the institution's waiver appeal deliberations and provided in the committee's written decision.

The committee's decision is final and not subject to further review by any other authority.

Written (e.g., electronic) confirmation of the decision must be provided by the committee to the institution within 21 calendar days of the decision.

APPEALS/RECONSIDERATIONS OF WAIVER DECISIONS

Appeals of Staff Decisions

The committee has authorized the subcommittee to consider all appeals of staff decisions involving Bylaw 15.5.7.

The subcommittee's determination shall be final and shall not be subject to further review by any other authority.

The subcommittee may conduct its deliberations by facsimile, telephone conference, e-mail, Internet or in-person meetings. Such deliberations shall involve only subcommittee members and the staff.

Appeal Procedures

If the staff is not able to approve the institution's waiver request, staff will forward the waiver to the subcommittee. The institution does not need to file an appeal request.

Reconsideration

After the staff and/or subcommittee issued a decision on a waiver request, the institution may ask the staff or subcommittee to reconsider its decision if the institution submits new or additional relevant information. Requests with new or additional relevant information may not be considered by the subcommittee until the staff has reviewed the new information.

Reporting Staff Decisions

The staff shall submit summaries of all decisions made by the staff to the subcommittee for their review.

HISTORICAL PENALTIES

Overview

The APP is meant to help ensure that the Division I membership is dedicated to providing student-athletes with an exemplary educational experience. The Board of Directors instructed that there be a system of disincentives for those teams that perform at an unacceptable level academically. Historical penalties are designed to restrict or deny the benefits of the Association for those teams that have a demonstrated history of academic underachievement.

Legislated Penalties (Bylaw 23.2.1.2)

Any team with a multiyear APR below the established benchmark of 900 will be subject to simultaneous review of multiple factors to determine whether or not the team is subject to historical penalties. Those factors are: meaningful improvement, institutional academic characteristics, institutional resource characteristics and a by-sport comparison.

Any institution or team that fails to compare favorably to the historical-penalty review factors will be subject to the following penalties:

Occasion-One Public Warning: A public warning is issued and a monitoring period begins.

Occasion-Two Financial Aid and Playing and Practice Season Restrictions: The team may be subject to reductions in the areas of athletics financial aid and playing and practice season. Details regarding the restrictions are outlined in the NCAA Division I Academic Performance Program Penalties Guide.

Occasion-Three Postseason Competition: The team (and student-athletes for individual sport teams) is not eligible for postseason competition (including NCAA championships and bowl games). ***(Adopted, 1/2008, effective 8/2008)***

Occasion-Four Membership Status: The institution's entire athletics program shall be reclassified to restricted membership status for a period of one year. If, at the end of the one-year restricted membership period, the penalized team does not improve enough to meet the benchmarks of the historical-penalty structure, the institution shall be reclassified as a corresponding member, consistent with the provisions of Constitution 3.5.

Additionally, the penalty structure is cumulative in that each prior occasion of penalty continues to apply as a team progresses to the next level of penalty. For example, a team subject to Occasion-Three penalties is also subject to Occasion-One and Occasion-Two Historical Penalties.

Sequence of Historical Penalties

The first time a team is subject to a historical penalty, it will be subject to the Occasion-One penalty. That team will be then subject to the next level of penalty until the team's APR exceeds the historical penalty benchmark and/or passes the review of factors for three consecutive years. Otherwise, each failure to meet the historical penalty determination factors will result in the next occasion of penalty. For example, a team subject to Occasion-One Public Warning must either achieve an APR at or above 900 or pass the factor review system for the next three years in order to avoid Occasion-Two penalties.

Notification of Historical Penalties

Institutions are considered to have official notification of its historical penalties when its penalty report becomes available on its password protected APP Web site. Generally, this will occur after the institution confirms that its APR/APC data is accurate. The report will provide the level of penalty that is applicable to the team(s).

Determination of Teams Subject to Historical Penalties

All teams with an APR below 900 will be reviewed using the analysis outlined below. Teams must demonstrate meaningful team improvement and meet one of the other factors in order to avoid historical penalties. Team improvement will be determined by an examination of team APR data to identify teams making improvement toward an APR of 925. The additional factors are as follows:

1. **By-sport comparison**. A team's APR is not in the bottom tenth percentile of team APRs within the same sport;

2. **Institutional academic characteristics**. The team must be academically outperforming students generally at its institution; or

3. **Institutional resource characteristics**. The institution must lack sufficient financial resources to quickly and reasonably engage in academic enhancements.

For details regarding the factor analysis, please refer to the NCAA Division I Academic Performance Program Penalties Guide.

Squad-Size Adjustment

Teams with less than four years of APP data submitted and teams with less than 30 data points in the four-year APR cohort will be subject to historical penalties based on the squad-size adjusted APR. The following chart provides the approximate minimum APR required, based on squad size, such that the team's squad size adjusted APR will be above 900.

Number of student-athletes in multiyear APR cohort* (N)	Approximate minimum APR to meet squad-size adjusted APR >=900
2	< 700
3	730
4	750
5	770
6	780
7	790
8	795
9	800
10	805
11	810

12	815
13-14	820
15-16	825
17-18	830
19-21	835
22-25	840
26-29	845
30-36	850
37-44	855
45-56	860
57-73	865
74-100	870
101-144	875
145-225	880
226-370	885

Timeline to Impose Occasion-Two and -Three Penalties

All Occasion-Two and -Three Penalties must be imposed in the academic year subsequent to the institution receiving notification that a team(s) is subject to the penalty. Components of the cumulative penalty package (i.e., financial aid, practice and postseason competition restrictions) may not be separated. *(Adopted: 4/2007, effective 4/2007; adopted 1/2008, effective 1/2008.)*

Failure to Impose an Historical Penalty Within the Prescribed Timeline

Institutions that fail to apply Occasion-Two Historical Penalties within the prescribed time period will be required to report a violation of Bylaw 23.2.1.2.2 to the enforcement staff. *(Adopted: 7/2007, effective 7/2007)*

Permission to Contact and Transfer Exceptions for Student-Athletes on Teams Subject to Historical Penalties

On approval by the Committee on Academic Performance, written permission is not required for an institution to contact a student-athlete of another institution whose team is ineligible for postseason competition during the remaining seasons of the student-athlete's eligibility. Additionally, the Committee on Academic Performance may recommend a waiver of the transfer-residence requirement for such a student-athlete, provided he or she would have been academically eligible had he or she remained at his or her original institution.

WAIVERS OF HISTORICAL PENALTIES

The committee has authorized the Subcommittee on Appeals and the staff to review waivers of Occasion-One and -Two Penalties. The committee has authorized the staff limited review of Occasion-Three and Four Penalties. Otherwise, Occasion-Three and -Four Penalties will be reviewed by the full committee.

The information below outlines the procedures for requesting a waiver of a historical penalty.

OCCASION-ONE PENALTIES (BYLAW 23.2.1.2.1-PUBLIC WARNING)

Pursuant to Bylaw 23, the Committee on Academic Performance has the authority to waive the application of Bylaw 23.2.1.2.1. The Committee on Academic Performance Subcommittee's decision shall be final, conclusive and not subject to further review by any other authority (Bylaw 23.3).

Application Procedures

All Occasion-One waivers must be submitted electronically to the NCAA national office via the LSDB*i* portal. Waivers must be submitted within 14 calendar days of the institution entering the penalty waiver period. The online waiver application will produce a signature page that must be signed by the institution's chancellor or president.

The waiver must set forth the reasons the institution believes that application of Bylaw 23.2.1.2.1 should not apply. The waiver must identify all team penalties for which the institution wishes to seek relief. The waiver will be considered a single case and will not be complete until each team penalty is addressed. The institution may include additional information and supporting documentation it considers is relevant to its request.

The reviewing body may request additional pertinent information before a decision is rendered.

Any waiver filed after 14 calendar days must include an explanation of why the request was not filed within the prescribed time period. The chair of the Subcommittee on Appeals must determine whether any waiver filed after 14 calendar days will be considered. *(Revised: 10/2006;* ***revised 4/2007****)*

Review Standards

On receipt of an institution's request, the staff will review the application to ensure it is complete, e-mail the institution's designated contact regarding the status of the request and identify the NCAA staff member handling the request. A request will not be processed and reviewed until all required documentation has been received by the staff. An institution has 10

calendar days to submit requested documents. If it does not provide the documentation within the timeframe, the case will be staff denied. Otherwise, the staff processing the case has 21 calendar days to render a decision.

The staff/subcommittee has the authority to render a decision for all Occasion-One Public-Warning waiver requests. Decisions will include consideration of the following:

1. The waiver directive approved by the committee.

2. Mitigating circumstances and whether the mitigating circumstances were within the control of the member institution and/or student-athlete(s).

3. Historical academic performance of the respective team(s) and/or student-athlete(s).

4. Number of teams at the institution subject to historical penalties.

5. Size of variance between the team's APR and the historical-penalty benchmark.

6. History of penalties and waivers (e.g., contemporaneous penalties, APR adjustments, historical penalties, progress-toward-degree waivers, initial-eligibility waivers) for affected team(s) and/or student-athlete(s).

7. Review of the institution's mission and its relationship to team APR, GSR or Federal Graduation Rate.

8. Development and submission of an APR improvement plan and review of previously created and implemented APR improvement plan(s).

9. Other factors deemed relevant to the waiver.

The staff/subcommittee has the authority to consider, deliberate and decide waiver requests. After reviewing all information, the staff/subcommittee will render one of the following decisions:

1. **Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.1 was warranted. In such instances, the team will not be subject to the Occasion-One Penalty. If the team again fails to meet the established benchmarks and factor review, the Occasion-One Public-Warning Penalty will be assessed rather than progressing to Occasion-Two Penalties.

2. **Conditionally Approved:** The staff/subcommittee determines that the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.1 was warranted if

specific conditions are met by the institution/team(s). Such conditions will be outlined by the staff/subcommittee in the decision notification. If the team again fails to meet the established benchmarks and factor review, the Occasion-One Public-Warning Penalty will be assessed rather than progressing to Occasion-Two penalties. However, failure to meet the stated conditions will result in the decision converting to a denial and the waived penalty being implemented and applied to the original penalty year. In this instance, if in the following three-year period, the team again fails to its meet the established benchmark and factor review, Occasion-Two Historical Penalties will be assessed.

3. **Denied:** The staff/subcommittee determines the institution's request did not demonstrate circumstances warranting a waiver of Bylaw 23.2.1.2.1. The institution will be responsible for applying the designated penalty or penalties.

Written confirmation of the decision must be provided by the staff/subcommittee to the institution within 21-calendar days of its decision.

Reconsideration

After the staff has acted on an appeal request, the institution may ask the staff to reconsider its decision if the institution submits new information that was not available to the institution at the time the original appeal was filed. A request with new information may not be considered by the subcommittee until the staff has reviewed the new information. An explanation must be included to clarify the reason(s) the new information was not originally available. The staff will determine if the information is new for all reconsideration requests. If the information is new, the staff will reopen the case, and make a decision based on the new set of facts. If the information is not considered new the staff decision will not be reconsidered, but the case may be appealed to the appeals subcommittee.

Conflict of Interest

A staff or subcommittee member must recuse himself or herself from participation in an appeal in which he or she is connected personally with an institution or conference. A staff or subcommittee member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the processing of an appeal. It is the responsibility of the staff or subcommittee member to remove himself or herself if a conflict exists. Institutional objections to a subcommittee member participating in the review of an appeal must be raised with the subcommittee chair or NCAA staff member handling the case (in the event that the institution objects to participation by the chair) prior to review of the appeal.

In the event that the subcommittee chair must recuse him or herself or is unable to participate in the appeal, the remaining members must vote, by simple majority, to determine who will serve as acting chair.

Appeal of Staff Decision

The committee has authorized the Subcommittee on Appeals to consider all appeals of staff decisions involving Bylaw 23.2.1.2.1, Occasion-One Public Warning.

After the staff has rendered a decision, the institution may appeal the decision to the subcommittee. The subcommittee's decision is final and is not subject to further review by any other authority.

Subcommittee members may not discuss a pending request with the staff processing the case or institutional representatives without all parties having the opportunity to participate. However, the staff supporting the work of the committee may contact the subcommittee chair to arrange a teleconference or to discuss procedural matters relevant to processing an institution's request. Further, the subcommittee members may contact the staff supporting the work of the committee to request that additional information about the case be submitted.

Appeal Procedures

An institution must submit the online appeal of a staff decision to the NCAA national office. All appeals must be submitted using the LSDB*i* portal. The online appeal program will produce a signature page that must be signed by the chancellor or president and must be provided to the NCAA national office. The application must set forth the rationale for the appeal. In addition, the appeal must identify all team penalties which the institution wishes to appeal. The appeal will be considered a single case and will not be complete until each team penalty is addressed.

All appeals of a staff decision must be filed with the NCAA national office within seven calendar days of written notification of the staff's decision.

Any appeal filed after seven-calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the subcommittee must determine whether any appeal filed after seven calendar days will be considered. *(Revised: 7/2007)*

Deliberations and Decisions

The subcommittee will receive and review the penalty notice, appeal application (including supporting documents), staff decision and rationale and team APP data.

The subcommittee may conduct its deliberations by facsimile, teleconference, e-mail, Internet or in-person meeting. Such deliberations shall include only subcommittee members and NCAA staff members supporting the work of the committee.

A simple majority of the subcommittee members present and voting is necessary for a decision. The chair, or person serving as chair on a particular appeal, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

Written confirmation of the decision must be provided by the subcommittee to the institution within 21 calendar days of the decision.

Reporting Staff Decision

The staff shall submit summaries of all decisions made by the staff to the subcommittee for their review. *(Adopted 10/2007)*

REVIEW OF CONDITIONALLY APPROVED OCCASION-ONE PENALTY WAIVERS—Determining whether the condition(s) was satisfied

The waiver case staff has authority to review conditionally approved waivers to determine whether the condition(s) was satisfied. If the condition(s) is not satisfied, the institution has the opportunity to explain to the staff why it failed to meet the condition(s) or why it believes it did not meet the stated conditions. The staff's decision may be appealed to the committee. The committee's decision is final and not subject to further review by any other authority.

Staff Review

The waiver case staff shall review the APP data and other relevant information of all institutions that had conditionally approved waivers from the previous year to confirm whether the stated condition(s) has been satisfied. The staff will conduct this review once the APR data submission correction and adjustment phases are complete.

If the stated condition(s) has been satisfied, the waiver case staff will notify the institution, in writing, that the historical penalty has been waived.

If the condition(s) is not satisfied, the waiver case staff will provide written notification that the conditionally approved waiver has not been satisfied and the team is required to impose the identified historical penalties at the next available opportunity. In addition, if based on the most recent year's data, the team has become subject to Occasion-Two Historical Penalties it must apply the Occasion-Two penalties in the year after it applies the Occasion-One penalties.

Furthermore, the staff will notify the institution that it may provide an explanation regarding why it failed to satisfy the condition(s) or why it believes it did meet the stated conditions(s).

The request must be submitted electronically to the NCAA national office via the LSDBI portal. Requests must be submitted within seven calendar days after the notification that the condition(s) has not been met and the institution is subject to the penalty. The online application will produce a signature page that must be signed by the institution's chancellor or president.

The request must set forth the reasons why the institution failed to meet its condition(s) or why it believes it did meet the stated condition(s) and as a result why the application of Bylaw 23.2.1.2.1 is not warranted. The institution may submit additional information that it believes is relevant to the case. The committee may request additional pertinent information before a final determination is made.

Any request filed after seven calendar days must include an explanation of why the request was not filed within the prescribed time period. The chair of the committee must determine whether any request filed after seven calendar days will be considered.

Review Standard

The staff may grant relief based on some or all of the following criteria:

1. Mitigating circumstances and whether the mitigating circumstances were within the control of the institution and/or student-athlete(s).

2. If multiple conditions were assigned, the number of conditions met and historical-academic performance of the respective team.

3. Size of variance between the team's most recent single-year APR and the APR required as the condition.

4. Improvement of the team's APR, eligibility and/or retention APR.

5. Review of the variables related to the institution's mission and resources and its relationship to the team's APR.

6. Evaluation of implementation of institution's previously submitted APR improvement plan and revisions to plan to address current issues impacting APR.

7. Any additional information provided by the institution.

Deliberations and Decisions

After reviewing all the information, the staff may render one of the following decisions:

1. **Approved:** The staff determines that the condition(s) is satisfied or the explanation provided by the institution is sufficient to satisfy the condition(s) and as a result, the institution is not subject to the Occasion-Three penalties.

2. **Denied:** The staff determines that the institution did not present circumstances that warrant relief form the staff conditional approval and as a result, the institution is subject to the Occasion-Three penalties.

Committee Review

After the staff has rendered a decision, the institution may appeal the decision to Committee on Academic Performance. The committee's decision is final and is not subject to further review by any other authority.

The request must be submitted electronically to the NCAA national office via the LSDBI portal. Requests must be submitted within seven calendar days after the notification that the condition(s) has not been met and the institution is subject to the penalty. The online application will produce a signature page that must be signed by the institution's chancellor or president.

The request must set forth the reasons why the institution failed to meet its condition(s) or why it believes it did meet the stated condition(s) and as a result why the application of Bylaw 23.2.1.2.1 is not warranted. The institution may submit additional information that it believes is relevant to the case. The committee may request additional pertinent information before a final determination is made.

Any request filed after seven calendar days must include an explanation of why the request was not filed within the prescribed time period. The chair of the committee must determine whether any request filed after seven calendar days will be considered.

Review Standard

Committee decisions will include consideration of the following:

1. Mitigating circumstances and whether the mitigating circumstances were within the control of the institution and/or student-athlete(s).

2. If multiple conditions were assigned, the number of conditions met and historical-academic performance of the respective team.

3. Size of variance between the team's most recent single-year APR and the APR required as the condition.

4. Improvement of the team's APR, eligibility and/or retention APR.

5. Review of the variables related to the institution's mission and resources and its relationship to the team's APR.

6. Implementation of the team's previously submitted APR Improvement Plan and assessment and development of an updated plan.

Conflict of Interest

A Committee on Academic Performance member must recuse himself or herself from participation in a review in which he or she is personally connected with an institution or conference. A Committee on Academic Performance member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the review. It is the responsibility of the Committee on Academic Performance member to remove himself or herself if a conflict exists. Institutional objections to a Committee on Academic Performance member participating in the review must be raised to the Committee on Academic Performance chair or NCAA staff member prior to review.

In the event that the Committee on Academic Performance chair must recuse him or herself or is unable to participate in the waiver, the remaining members must vote, by simple majority, to determine who will serve as "acting chair".

Deliberations and Decisions

The committee will receive the original staff conditional approval decision, staff decision regarding condition(s) not being met, the institution's request and supporting documentation and the team(s) APP data.

The committee may conduct its deliberations by facsimile, teleconference, electronic mail, Internet or in-person meeting. Such deliberations shall include only committee members and NCAA staff members supporting the committee.

A simple majority of the committee members present and voting is necessary for a decision. The chair, or acting chair, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

After reviewing all information, the committee will render one of the following decisions:

1. **Approved:** The committee determines that the condition(s) is satisfied or the explanation provided by the institution is sufficient to satisfy the condition(s) and as a result, the institution is not subject to the Occasion-One penalties.

2. **Denied:** The committee determines that the institution did not present circumstances that warrant relief form the staff conditional approval and as a result, the institution is subject to the Occasion-One penalties.

If relief is not provided, the institution will be notified that the historical penalty will be imposed. Additionally, if the team has become subject to historical penalties in the current academic year, it will then also be subject to the next occasion of penalty within the historical-penalty structure.

The committee's decision is final and not subject to further review by any other authority.

Written (e.g., electronic) confirmation of the decision must be provided by the committee to the institution within 21 calendar days of the decision.

OCCASION-TWO PENALTIES (BYLAW 23.2.1.2.2-FINANCIAL AID, PLAYING AND PRACTICE SEASONS AND/OR RECRUITING)

A member institution that seeks to delay or waive an Occasion-Two Penalty shall submit an online waiver application to the national office only after it has received electronic notification indicating that one or more of its teams are subject to Occasion-Two Historical Penalties.

Application Procedures

All Occasion-Two waivers must be submitted electronically to the NCAA national office via the LSDB*i* portal. Waivers must be submitted within 14 calendar days of the institution entering the penalty waiver period. The online waiver application will produce a signature page that must be signed by the institution's chancellor or president.

The waiver must set forth the reasons the institution believes that application of Bylaw 23.2.1.2.2 should be waived. The waiver must identify all team penalties the institution wishes to waive. The waiver will be considered a single case and will not be complete until each team penalty is addressed. The institution may include additional information and supporting documentation relevant to its request.

The reviewing body may request additional pertinent information before a decision is rendered.

Any waiver filed after 14 calendar days must include an explanation of why the waiver was not filed within the prescribed time period. The chair of the subcommittee must determine whether any waiver filed after 14 calendar days will be considered. *(Revised: 10/2006; 4/2007)*

Review Standards

On receipt of an institution's request, the staff will review the application to ensure it is complete, e-mail the institution's designated contact regarding the status of the request and identify the NCAA staff member handling the request. A request will not be processed and reviewed until all required documentation has been received by the staff. An institution has 10 calendar days to submit requested documents. If it does not provide the documentation within the timeframe, the case will be staff denied. Otherwise, the staff processing a case has 21 calendar days to render a decision.

The staff/subcommittee has the authority to render a decision for all Occasion-Two Appeal requests. Decisions will include consideration of the following:

1. The waiver directive approved by the committee.

2. Mitigating circumstances and whether the mitigating circumstances were within the control of the member institution and/or student-athlete(s).

3. Historical academic performance of the respective team and or student-athlete(s).

4. Number of teams at the institution subject to historical penalties.

5. Size of variance between the team's APR/GSR and the historical-penalty "benchmark."

6. History of penalties and waivers (e.g., contemporaneous penalties, APR adjustments, historical penalties, progress-toward-degree waivers, initial-eligibility waivers) for affected team(s) and/or student-athlete(s).

7. Review of the institution's mission and its relationship to the team's APR, GSR and the Federal Graduation Rate.

8. Development and submission of an APR improvement plan and review of previously created and implemented APR improvement plan(s).

9. Other factors deemed relevant to the waiver.

The staff/subcommittee has the authority to consider, deliberate and decide waiver requests. After reviewing all information, the staff/subcommittee will render one or more of the following decisions:

1. **Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.2 was warranted. In such instances, the team will not be subject to the Occasion-Two Penalty. If the institution again fails to meet the established benchmarks and factor review, the Occasion-Two Penalty will be assessed rather than progressing to Occasion-Three Penalties.

2. **Conditionally Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.2 was warranted if specific conditions were met by the institution/team. Such conditions will be outlined by the staff/subcommittee in the decision notification. If the team fails again to meet the established benchmark the Occasion-Two Penalties will be assessed rather than progressing to Occasion-Three Penalties. However, failure to meet the stated conditions will result in the decision converting to a denial and the waived penalty being implemented and applied to the original penalty year. In this instance, if, in the following three-year period, the team fails to again meet the established benchmark and factor review, Occasion-Three Penalties will be assessed.

3. **Partially Approved:** The staff/subcommittee determines the institution's request demonstrated evidence that a partial waiver of Bylaw 23.2.1.2.2 was warranted. If, in the following three-year period, the team again fails to meet the established benchmark, Occasion-Three Penalties will be assessed.

4. **Denied:** The staff/subcommittee determines the institution's request did not demonstrate circumstances warranting a waiver of Bylaw 23.2.1.2.2. This institution will be responsible for applying the designated penalty or penalties.

Written confirmation of the decision must be provided by the staff/subcommittee to the institution within 21 calendar days of the decision.

Reconsideration

After the staff has issued a decision on a waiver request, the institution may ask the staff to reconsider its decision if the institution submits new information that was not available to the institution at the time the original waiver was filed. Requests with new information may not be considered by the subcommittee until the staff has reviewed the new information. An explanation must be included to clarify the reason(s) the new information was not originally available. The

staff will determine whether information is new for all reconsideration requests. If the information is new, the staff will re-open the case and make a decision based on the new set of facts. If the information is not new, the staff decision will not be reconsidered; but, the case may be appealed to the Subcommittee on Appeals.

Conflict of Interest

A staff or subcommittee member must recuse himself or herself from participation in an appeal in which he or she is personally connected with an institution or conference. A staff or subcommittee member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the processing of an appeal. It is the responsibility of the staff or subcommittee member to remove himself or herself if a conflict exists. Institutional objections to a subcommittee member participating in the review of an appeal must be raised with the subcommittee chair or NCAA staff member handling the case (in the event that the institution objects to participation by the chair prior to review of the appeal).

In the event that the subcommittee chair must recuse him or herself or is unable to participate in the appeal, the remaining members must vote, by simple majority, to determine who will serve as acting chair.

Appeal of Staff Decision

The committee has authorized the Subcommittee on Appeals to consider all appeals of staff decisions involving Bylaw 23.2.1.2.2, Occasion-Two Financial Aid, Playing and Practice Season and/or Recruiting Limitations.

After the staff has rendered a decision, the institution may appeal the decision to the subcommittee. The subcommittee's decision is final and is not subject to further review by any other authority.

Subcommittee members may not discuss a pending request with the staff processing the case or institutional representative(s) without all parties having the opportunity to participate. However, the staff supporting the work of the committee may contact the subcommittee chair to arrange a teleconference or to discuss procedural matters relevant to processing an applicant's request. Further, the subcommittee members may contact the staff supporting the work of the committee to request that additional information about the case be submitted.

Appeal Procedures

A member institution must submit the appeal of a staff decision to the NCAA national office. All notices must be submitted using the LSDB*i* portal. The online appeal application will

produce a signature page that must be signed by the chancellor or president and provided to the NCAA national office.

The application must set forth the rationale for the appeal. In addition, the appeal must identify all team penalties which the institution wishes to appeal. The appeal will be considered a single case and will not be complete until each team penalty is addressed.

All appeals of a staff decision must be filed with the NCAA national office within seven calendar days of written notification of the staff's decision.

Any appeal filed after seven calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the subcommittee must determine whether any appeal filed after seven calendar days will be considered. *(Revised: 4/2007)*

An appeal of a staff decision will be heard via teleconference. After submission of the appeal, the staff will schedule a teleconference call and notify the institution and subcommittee of the date and time. In addition, the staff handling the case will review the application and ensure it is complete. The staff handling the case will also contact the institution to verify that all facts and assertions are accurate. This must be done prior to the case being forwarded to the subcommittee.

Appeal Participants

Each of the following individuals from the institution must participate in the appeal: (a) chancellor or president (or his or her designee); (b) athletics director or senior woman administrator; (c) faculty athletics representative; (d) head coach of the penalized team(s); and (e) any other individuals whose presence was requested by the subcommittee.

The institution at its discretion may permit other institutional staff members and conference office staff members (e.g., conference commissioner) to be on the teleconference for the appeal.

An institution and any individual whose presence has been requested by the subcommittee may have legal counsel present; however, an individual must speak on behalf of himself or herself.

Student-athletes and noninstitutional or nonconference office staff members are not permitted to participate in the teleconference or be present on the call.

The lead NCAA administrator who handled the case (or a staff member with case administrative oversight responsibilities) and NCAA staff member(s) supporting the work of the committee must participate on the call.

The subcommittee chair, at his or her discretion, has the authority to remove a participant from participating or being present on the teleconference call. The subcommittee chair is not required to give advance notice/warning for removing any participants.

Documents Reviewed by the Subcommittee

The subcommittee will receive and review the notice of penalty, appeal application (including supporting documents), staff decision and rationale and applicant team(s) APP data. Prior to the teleconference, the subcommittee will distribute to the institution, NCAA staff and involved individuals an agenda of teams to be discussed and a list of specific documents that comprise the record the subcommittee will review.

Introductions

The subcommittee chair will call the teleconference meeting to order and introduce the members of the subcommittee.

Following introductions of the subcommittee, the chair of the subcommittee will ask the institution to select one person to speak on behalf of the institution (institutional spokesperson). This person must be someone who is employed by the institution on a full-time basis. An involved individual must speak on behalf of himself or herself.

The institution will introduce its representatives followed by individuals whose presence has been requested by the subcommittee or the institution and conference office representatives.

The NCAA staff will introduce themselves.

After the introductions, the subcommittee chair may make announcements.

Review of the Appeal

The NCAA staff administrator who handled the case (or a staff member with oversight responsibilities) has 10 minutes per team to describe the facts of the appeal, applicable case precedent and the staff's rationale.

The institution's spokesperson will then have 10 minutes per team to describe the case and explain the reasons for requesting that the staff's decision be overturned or modified.

The chair or acting chair is responsible for monitoring the time. Following the description of the case, the subcommittee members may ask questions of all participants. Once all questions have been answered, the call will conclude with the staff and institution each providing one five

minute closing statement. The closing statement must be conducted by the institution's spokesperson and the staff member who presented the case.

Deliberations and Decision

At the conclusion of the teleconference, the subcommittee members must deliberate. Neither the institution, conference nor NCAA staff member(s) handling or presenting the case may be present for the deliberations. NCAA staff members supporting the committee will be present during deliberations but will not be the same staff member(s) handling or presenting the case. *(adopted 1/2008, effective 1/2008)*

A simple majority of subcommittee members present and voting is necessary for a decision. The chair, or acting chair on a particular appeal, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

Written confirmation of the decision must be provided by the subcommittee to the institution within 21 calendar days of the decision.

REVIEW OF CONDITIONALLY APPROVED OCCASION-TWO PENALTY WAIVERS—Determining whether the condition(s) was satisfied

The waiver case staff has authority to review conditionally approved waivers to determine whether the condition(s) was satisfied. If the condition(s) is not satisfied, the institution has the opportunity to explain to the staff why it failed to meet the condition(s) or why it believes it did not meet the stated conditions. The staff's decision may be appealed to the committee. The committee's decision is final and not subject to further review by any other authority.

Staff Review

The waiver case staff shall review the APP data and other relevant information of all institutions that had conditionally approved waivers from the previous year to confirm whether the stated condition(s) has been satisfied. The staff will conduct this review once the APR data submission correction and adjustment phases are complete.

If the stated condition(s) has been satisfied, the waiver case staff will notify the institution, in writing, that the historical penalty has been waived.

If the condition(s) is not satisfied, the waiver case staff will provide written notification that the conditionally approved waiver has not been satisfied and the team is required to impose the identified historical penalties the year subsequent to notification. In addition, if based on the

most recent year's data, the team has become subject to Occasion-Three historical penalties it must also apply the Occasion-Three penalties the academic year subsequent to notification. Furthermore, the staff will notify the institution that it may provide an explanation regarding why it failed to satisfy the condition(s) or why it believes it did meet the stated conditions(s).

The request must be submitted electronically to the NCAA national office via the LSDBI portal. Requests must be submitted within seven calendar days after the notification that the condition(s) has not been met and the institution is subject to the penalty. The online application will produce a signature page that must be signed by the institution's chancellor or president.

The request must set forth the reasons why the institution failed to meet its condition(s) or why it believes it did meet the stated condition(s) and as a result why the application of Bylaw 23.2.1.2.2 is not warranted. The institution may submit additional information that it believes is relevant to the case. The committee may request additional pertinent information before a final determination is made.

Any request filed after seven calendar days must include an explanation of why the request was not filed within the prescribed time period. The chair of the committee must determine whether any request filed after seven calendar days will be considered.

Review Standard

The staff may grant relief based on some or all of the following criteria:

1. Mitigating circumstances and whether the mitigating circumstances were within the control of the institution and/or student-athlete(s).

2. If multiple conditions were assigned, the number of conditions met and historical-academic performance of the respective team.

3. Size of variance between the team's most recent single-year APR and the APR required as the condition.

4. Improvement of the team's APR, eligibility and/or retention APR.

5. Review of the variables related to the institution's mission and resources and its relationship to the team's APR.

6. Evaluation of implementation of institution's previously submitted APR improvement plan and revisions to plan to address current issues impacting APR.

7. Any additional information provided by the institution.

Deliberations and Decisions

After reviewing all the information, the staff may render one of the following decisions:

1. **Approved:** The staff determines that the condition(s) is satisfied or the explanation provided by the institution is sufficient to satisfy the condition(s) and as a result, the institution is not subject to the Occasion-Two penalties.

2. **Denied:** The staff determines that the institution did not present circumstances that warrant relief form the staff conditional approval and as a result, the institution is subject to the Occasion-Two penalties.

Committee Review

After the staff has rendered a decision, the institution may appeal the decision to Committee on Academic Performance. The committee's decision is final and is not subject to further review by any other authority.

The request must be submitted electronically to the NCAA national office via the LSDBI portal. Requests must be submitted within seven calendar days after the notification that the condition(s) has not been met and the institution is subject to the penalty. The online application will produce a signature page that must be signed by the institution's chancellor or president.

The request must set forth the reasons why the institution failed to meet its condition(s) or why it believes it did meet the stated condition(s) and as a result why the application of Bylaw 23.2.1.2.2 is not warranted. The institution may submit additional information that it believes is relevant to the case. The committee may request additional pertinent information before a final determination is made.

Any request filed after seven calendar days must include an explanation of why the request was not filed within the prescribed time period. The chair of the committee must determine whether any request filed after seven calendar days will be considered.

Review Standard

Committee decisions will include consideration of the following:

1. Mitigating circumstances and whether the mitigating circumstances were within the control of the institution and/or student-athlete(s).

2. If multiple conditions were assigned, the number of conditions met and historical-academic performance of the respective team.

3. Size of variance between the team's most recent single-year APR and the APR required as the condition.

4. Improvement of the team's APR, eligibility and/or retention APR.

5. Review of the variables related to the institution's mission and resources and its relationship to the team's APR.

6. Implementation of the team's previously submitted APR Improvement Plan and assessment and development of an updated plan.

Conflict of Interest

A Committee on Academic Performance member must recuse himself or herself from participation in a review in which he or she is personally connected with an institution or conference. A Committee on Academic Performance member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the review. It is the responsibility of the Committee on Academic Performance member to remove himself or herself if a conflict exists. Institutional objections to a Committee on Academic Performance member participating in the review must be raised to the Committee on Academic Performance chair or NCAA staff member prior to review.

In the event that the Committee on Academic Performance chair must recuse him or herself or is unable to participate in the waiver, the remaining members must vote, by simple majority, to determine who will serve as "acting chair."

Deliberations and Decisions

The committee will receive the original staff conditional approval decision, staff decision regarding condition(s) not being met, the institution's request and supporting documentation and the team(s) APP data.

The committee may conduct its deliberations by facsimile, teleconference, electronic mail, Internet or in-person meeting. Such deliberations shall include only committee members and NCAA staff members supporting the committee.

A simple majority of the committee members present and voting is necessary for a decision. The chair, or acting chair, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

After reviewing all information, the committee will render one of the following decisions:

1. **Approved:** The committee determines that the condition(s) is satisfied or the explanation provided by the institution is sufficient to satisfy the condition(s) and as a result, the institution is not subject to the Occasion-Two penalties.

2. **Denied:** The committee determines that the institution did not present circumstances that warrant relief from the staff conditional approval and as a result, the institution is subject to the Occasion-Two penalties.

If relief is not provided, the institution will be notified to impose the historical penalty the academic year subsequent to notification. Additionally, if the team has become subject to historical penalties in the current academic year, it will then also be subject to the next occasion of penalty within the historical-penalty structure. If the institution seeks relief from the next occasion of penalty, the Committee on Academic Performance has the discretion to provide flexibility to institutions regarding the timeframe for imposing penalties. Specifically, the committee may decide to permit an institution to impose the penalties over a multiyear period. The committee may decide what penalties to extend and when. Such determinations will be made as part on the institution's waiver appeal deliberations and provided in the committee's written decision.

The committee's decision is final and not subject to further review by any other authority.

Written (e.g., electronic) confirmation of the decision must be provided by the committee to the institution within 21 calendar days of the decision.

OCCASION-THREE PENALTIES (BYLAW 23.2.1.2.3 – POSTSEASON COMPETITION and other applicable penalties)

The staff has limited authority to render decisions for Occasion-Three waiver requests. Specifically, the staff is permitted to approve or conditionally approve a waiver request. The staff does not have the authority to partially approve or deny an Occasion-Three Penalty waiver request.

All Occasion-Three waivers must be reviewed initially by the staff. If the staff does not approve or conditionally approve a waiver, it must forward the waiver to the Committee on Academic Performance. The full Committee on Academic Performance will review the waiver and the committee's decision may be appealed to a subcommittee of the Board of Directors if the basis for appeal meets the stated criteria.

<u>Definitions</u>

For purposes of Occasion-Three and –Four Penalties, the following definitions apply.

1. **Waiver Case Lead:** The waiver case lead is charged with coordinating the staff review of waivers based on authority granted by the committee. He or she facilitates the submission of waivers by institutions. He or she is responsible for ensuring review of all submitted waivers for completeness and assigns waivers to waiver case staff. The oversight administrator or his/her waiver case staff designee will be present at all waiver hearings to present the case and any staff decision. Such staff will not be present during any of the committee's deliberations and will only be present in hearings when institutional representatives are present per established policies. Additionally, this administrator is responsible for scheduling committee waiver hearings and the logistical coordination necessary for the proceedings.

2. **Waiver Case Staff:** The waiver case staff is charged with reviewing the waiver to ensure it is complete and working with the institution to collect any additional information necessary. The staff has some authority to render a decision for Occasion-Three and –Four Historical Penalties. The staff may approve or conditionally approve a waiver. If either decision cannot be reached, then the staff must forward the waiver to the committee for a hearing. The staff may not deny or partially approve a waiver. The oversight administrator may designate a waiver case staff member to participate in the waiver hearing (e.g., provide APP data to the committee, responding to questions from the committee and if a staff decision has been issued, will provide the rationale for such a decision). The staff may not be present during committee deliberations and will only be present in hearings when institutional representatives are present per established policies.

3. **Staff Supporting the Committee:** This staff is responsible for managing all waiver hearings. The staff is responsible for supporting the committee before, during and after the hearing and in its deliberations. The staff will support the committee during appeals to the Board of Directors subcommittee. The staff may not be present in Board of Directors subcommittee deliberations and will only be present in hearings when institutional representatives are present per established policies.

4. **Staff Supporting the Board of Directors:** The staff is responsible for scheduling and managing all Board of Directors subcommittee appeal teleconferences. The staff is responsible for supporting the subcommittee before, during and after the appeal and in its deliberations.

5. **Penalty Waiver Period:** Point in the APP process when an institution is able to submit a waiver of a contemporaneous and/or historical penalty. In general an institution submits its APP data then has an opportunity to correct the submitted data and finally may request adjustments of the data. Once the data has become finalized an institution will be notified of its opportunity to submit a penalty waiver.

Recording

The committee may record and/or have present a recording clerk during all Occasion-Three and -Four appeal hearings.

Application Procedures

All Occasion-Three waivers (i.e., seek relief of some or all applicable penalties or to delay imposing penalty) must be submitted electronically to the NCAA national office via the LSDB*i* portal. Waivers must be submitted within 21 calendar days of the institution entering the penalty waiver period. The online waiver application program will produce a signature page that must be signed by the institution's chancellor or president.

The waiver must set forth the reasons the institution believes that application of Bylaw 23.2.1.2.3 (e.g., Occasion-Three Penalties) should be waived. The waiver must identify all team penalties that an institution is appealing to the Committee on Academic Performance. The waiver will be considered a single waiver case and will not be complete until all team penalties being appealed are addressed. The institution may include additional information and supporting documentation it believes is relevant to its request.

The NCAA staff/committee may request additional pertinent information before a decision is rendered.

Any waiver filed after the 21 calendar days must include an explanation of why the waiver was not filed within the prescribed time period. The chair, or acting chair, of the committee must determine whether any appeal filed after 21 calendar days will be considered.

Staff Review

Review Standards

Staff decisions will include consideration of the following:

1. The waiver directive approved by the committee.

2. Mitigating circumstances and whether the mitigating circumstances were within the control of the member institution and/or student-athlete(s).

3. Historical academic performance of the respective team(s) and/or student-athlete(s).

4. Number of teams at the institution subject to historical penalties.

5. Size of variance between the team's APR/GSR and the historical-penalty "benchmark."

6. History of penalties and waivers (e.g., contemporaneous penalties, APR adjustments, historical penalties, progress-toward-degree waivers, initial-eligibility waivers) for affected team and/or student-athlete(s).

7. Review of the institution's mission and its relationship to any team APR, GSR or Federal Graduation Rate.

8. Development and submission of an APR improvement plan and review of previously created and implemented APR improvement plan(s).

9. Other factors deemed relevant to the waiver.

On receipt of an institution's request, an assigned NCAA waiver case staff member will review the application to ensure it is complete, e-mail the institution's designated contact person regarding the status of the request and identify the NCAA waiver case staff member handling the request. A request will not be processed and reviewed until all required documentation has been received by the staff.

The waiver case staff will review the waiver request and communicate with the institution regarding any additional information necessary for the waiver.

The waiver case staff may approve or conditionally approve the waiver. If the waiver case staff does not make either decision, it must forward the waiver to the committee for a hearing. The waiver case staff has 14 calendar days, from the time the waiver file is complete, to render a decision or forward the waiver to the committee.

After reviewing all information, the waiver case staff will either forward the waiver to the committee for review or render one of the following decisions:

1. **Approved:** The waiver case staff, on behalf of the committee, determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.3 was warranted. In such instances, the team will not be subject to the applicable Occasion-Three Penalties. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, the Occasion-Three Penalties will be assessed, rather than progressing to Occasion-Four Penalties.

2. **Conditionally Approved:** The waiver case staff, on behalf of the committee, determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.3 was warranted if specific conditions were met by the institution/team. Such conditions will be outlined by the waiver case staff in the decision notification. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, Occasion-Three Penalties will be assessed rather than progressing to Occasion-Four Penalties. Failure to meet the stated conditions will result in the decision converting to a denial and the waived penalty being implemented. In this instance, if, in the next three-year period, the team fails to meet the established benchmarks and factor review, Occasion-Four Penalties will be assessed.

Written confirmation of the decision to approve or conditionally approve must be provided by the staff, on behalf of the committee, to the institution within 14 calendar days of its decision.

Acceptance of Conditions

The institution has seven calendar days to accept, in writing, the waiver case staff conditional approval and stated condition(s). If the institution accepts this outcome, the institution must meet the conditions as outlined in the decision. However, if the institution does not accept the conditional approval and stated condition(s), the waiver case staff shall forward the waiver to the Committee on Academic Performance. The committee will review the waiver de novo at an in-person hearing according to the procedures outlined in the committee review section below. The committee may approve, conditionally approve, partially approve or deny the waiver.

Reconsideration

After the waiver case staff has issued a decision, the institution may ask the staff to reconsider its decision if the institution submits new information that was not available to the institution at the time the original waiver was filed. Requests with new information may not be considered by the committee until the waiver case staff has reviewed the new information.

Reporting Staff Decision

The waiver case staff shall annually submit summaries of all decisions made by the waiver case staff for committee review. The summaries shall not provide institutional names.

Committee Review

The committee has authority to consider waivers of Occasion-Three Historical Penalties. The committee will review all waivers by all committee members present and voting at an in-person hearing. The committee has authorized the NCAA staff to support the committee (hereafter referred to as "staff supporting the committee"). The staff supporting the committee has separate and distinct duties from the waiver case staff.

Review Standard

The committee will generally review each team separately, usually in the order contained in the notice of penalty. However, the committee may review teams together if the rationales for the waivers are similar.

Committee decisions will include consideration of the following:

1. Mitigating circumstances and whether the mitigating circumstances were within the control of the member institution and/or student-athlete(s).

2. Historical academic performance of the respective team(s) and/or student-athlete(s).

3. Number of teams at the institution subject to historical penalties.

4. Size of variance between the team's APR/GSR and the historical-penalty "benchmark".

5. History of penalties and waivers (e.g., contemporaneous penalties, APR adjustments, historical penalties, progress-toward-degree waivers, initial-eligibility waivers) for affected team and/or student-athlete(s).

6. Review of the institution's mission and its relationship to any team APR, GSR or Federal Graduation Rate.

7. Development and submission of an APR improvement plan and review of previously created and implemented APR improvement plan(s).

8. Other factors deemed relevant to the waiver.

Conflict of Interest

A Committee on Academic Performance member must recuse himself or herself from participation in a waiver in which he or she is personally connected with an institution or conference. A Committee on Academic Performance member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the processing of a waiver. It is the responsibility of the Committee on Academic Performance member to remove himself or herself if a conflict exists. Institutional objections to a Committee on Academic Performance member participating in the review of a waiver must be raised to the Committee on Academic Performance chair or NCAA staff member when submitting the waiver in LSDBi.

In the event that the Committee on Academic Performance chair must recuse him or herself or is unable to participate in the waiver, the remaining members must vote, by simple majority, to determine who will serve as "acting chair."

Committee members may not discuss a pending request with the waiver case staff processing the case or institutional representative(s) without all parties having the opportunity to participate. Waiver case staff may communicate with the committee and institution regarding logistical hearing information (e.g., time, place, date of a waiver). The staff supporting the committee may contact the committee chair to arrange a teleconference or to discuss procedural matters relevant to processing an institution's request. Further, the committee members may contact the staff

supporting the committee to request that additional information about the case be submitted or to obtain procedural information.

Hearing Costs

The Committee on Academic Performance is responsible for actual and necessary expenses for NCAA staff and committee members. In addition, the committee is responsible for expenses related to reserving the hearing room.

The institution is responsible for all costs related to the waiver hearing for its institutional officers and staff members, including those staff members whose presences is requested by the Committee on Academic Performance (this may include former staff members).

The conference office is responsible for all costs related to the waiver hearing for its staff members, including those staff members whose presence is requested by the Committee on Academic Performance (this may include former staff members).

Timeframe for Hearing

A waiver of Occasion-Three penalties will be heard in person, before all committee members in attendance at the hearing. The waiver case staff will schedule a hearing and notify the institution and the Committee on Academic Performance of the time, date and location. When setting the date and time for the hearing, the committee will attempt to accommodate the schedule of the institution's representatives. Any conflicts with the hearing should be communicated as soon as possible to the waiver case staff. The length of time for the hearing shall be left to the discretion of the committee chair, or acting chair.

Documents Reviewed by the Committee

The Committee on Academic Performance will receive and review the notice of penalty, waiver application (including supporting documents), team(s)' APP data (e.g., APR, GSR, contemporaneous-penalty information, historical-penalty information), APR Improvement Plans and any other information it deems appropriate.

Any additional documentary information/data that the institution would like the committee to review must be received by the waiver case staff at least 14 calendar days prior to the hearing. The waiver case staff must distribute the documents to the committee, institution and individuals whose presence is requested by the Committee on Academic Performance or the institution not less than seven calendar days prior to the scheduled hearing.

Prior to the hearing, the Committee on Academic Performance will distribute to the institution and individuals whose presence has been requested by the committee an agenda of the team(s) to be discussed and a list of specific documents that comprise the record the committee will review.

Subject to the approval of the Committee on Academic Performance for good-cause shown, additional documents may be submitted at the hearing, provided copies (at least 40), are available for all in attendance.

The Committee on Academic Performance also may request additional documentation during the hearing or the committee's deliberations, with copies provided to all parties.

Waiver Hearing Participants

The following individuals must participate in the waiver hearing: (a) the institution's chancellor or president; (b) the athletics director; (c) the head coach of the penalized team(s) and (d) any other individuals whose presence was requested by the committee. If any of these individuals is not available (e.g., individual is no longer employed by institution) for the hearing, the institution must notify the committee at least 14 calendar days prior to the scheduled hearing. The committee will then notify the institution as to whether it expects another individual to substitute for the unavailable individual. At the chair's discretion, the appeal may proceed without the unavailable individual.

In addition, the institution may permit four other individuals to participate in the hearing, one of which must be responsible for implementing the institution's APR Improvement Plan. An institution may have legal counsel present, and he or she must count as one of the four other individuals the institution is permitted to have attend the hearing.

Media representatives, including institutional media staff, may not be present at the hearing.

Student-athletes may not be present at the hearing.

The executive officer or one other representative of a member conference's office may be present at a waiver hearing involving a conference member.

NCAA staff members supporting the work of the committee must participate in all portions of the waiver hearing, including deliberations. In addition, the waiver case staff must participate in the waiver hearing and present to the committee. Waiver case staff and the staff supporting the Board of Directors subcommittee shall not be present for committee deliberations. Other NCAA staff members may participate at the discretion of the chair.

The Committee on Academic Performance has the authority to request that institution officials and staff members, including coaches, appear before it. Further, the committee has the authority to request that former institutional staff or conference office members appear before it. These individuals will be referred to as "involved individuals." An involved individual may have legal

counsel present; however, the involved individual must be present at the hearing and counsel may not speak on the individual's behalf.

All other individuals must be approved by the committee.

At the request of a member institution or at its own discretion, the committee may exclude an individual from certain portions of the waiver hearing. Such decisions may be made by the chair or acting chair.

Introductions

The Committee on Academic Performance chair, or acting chair, will call the meeting to order and introduce the members of the committee and NCAA staff members supporting the committee.

The institution will introduce its representatives followed by any involved individual and conference office representatives.

The NCAA waiver case staff will then introduce themselves.

After introductions, the committee chair may make announcements.

Opening Statement

The waiver case staff and institution each will be provided an opportunity to make a brief opening statement to the committee.

An opening statement shall be limited to not more than 15 minutes. The waiver case staff will first provide opening statements, followed by the institution.

The waiver case staff will provide a review of the team's APP history, data and information (e.g., APR, GSR, contemporaneous-penalty information, historical-penalty information, APR improvement plan review, institutional mission information) as well as any relevant academic-waiver data (e.g., progress-toward-degree information, initial-eligibility information) and information requested by the committee.

The institution's president or chancellor must provide an opening statement. In addition, the institution will provide a brief summary of the case and set forth the rationale for the waiver request and may include comments in rebuttal to the staff's opening statement. This statement may be made by any of the institution's representatives. All speakers in the opening statement and their comments are included in the institution's 15 minute time limit.

The committee chair, or his or her designee, is responsible for monitoring the time.

Question and Answer

Following opening statements, the committee members may ask questions of all participants. Additionally, committee members may ask questions at any time during the discussion of a waiver. Any institutional representative, conference office representative or involved individual may be questioned by the committee on any relevant issue. It is possible that the parties will be asked to respond to questions prior to their formal presentations.

If the institution or waiver case staff wishes to ask a question of another party, that question should be directed to the Committee on Academic Performance chair, who will then decide if the question is appropriate and will direct it to the appropriate individual.

The length of time for questions and answers shall be left to the discretion of the chair of the Committee on Academic Performance.

Closing Statements

After the question and answer period, the Committee on Academic Performance will hear brief closing statements from the waiver case staff and institution. The closing statement must be made by the institution's spokesperson and the waiver case staff member who presented the case. The closing statement may not exceed 10 minutes.

The waiver case staff will make its closing statement first, followed by the institution.

Closing statements are not intended to discuss the details of the waiver request, present new information or to make new assertions. The closing statement provides the staff and institution an opportunity for each party to summarize the discussions that occurred during the hearing and to provide a brief statement regarding the case. The institution's closing statement also allows the institution an opportunity to rebut any statements made by the waiver case staff.

Deliberations and Decision

At the conclusion of the waiver hearing, the committee members will deliberate. The committee may request additional information from any appropriate source, including the institution or the waiver case staff. In this event, the institution and the waiver case staff will be given an opportunity to be present at the time such information is provided to the committee.

Only the Committee on Academic Performance members and NCAA staff supporting the committee (but not the NCAA staff member who presented the case) may be present for the deliberation. Other NCAA staff may be present for the deliberations at the discretion of the committee chair or acting chair. However, the waiver case staff who presented the case and the staff supporting the Board of Directors Subcommittee shall not be present.

A simple majority of the committee members present and voting is necessary for a decision. The chair, or acting chair, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

After reviewing all information, the Committee on Academic Performance will render one of the following decisions:

1. **Approved:** The committee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.3 was warranted. In such instances, the team will not be subject to the Occasion-Three Penalties. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, the Occasion-Three- Penalties will be assessed, rather than progressing to Occasion-Four Penalties.

2. **Conditionally Approved:** The committee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.3 was warranted if specific conditions were met by the institution/team. Such conditions will be outlined by the committee in the decision notification. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, Occasion-Three Penalties will be assessed rather than progressing to Occasion-Four Penalties. However, failure to meet the stated conditions, will result in the decision converting to a denial and the waived penalty being implemented. In this instance, if, in the next three-year period, the team fails to meet the established benchmarks and factor review, Occasion-Four Penalties will be assessed.

3. **Partially Approved:** The committee determines the institution's request demonstrated evidence that a partial waiver of Bylaw 23.2.1.2.3 was warranted. The details of the partial approval shall be outlined in the decision notification. The committee may waive any part of the team's penalties, in part or in its entirety. Additionally, the committee may determine that if the team in the following three-year period, fails to meet the established benchmarks and factor review, Occasion-Three Penalties will be assessed for a second time and the team may not advance to the Occasion-Four Penalty.

4. **Denied:** The committee determines the institution's request did not demonstrate evidence warranting a waiver of Bylaw 23.2.1.2.3. The institution will be responsible for applying the designated penalty or penalties.

Written (e.g., electronic) confirmation of the decision must be provided by the committee to the institution within 21 calendar days of the hearing.

<u>Reconsideration</u>

After the Committee on Academic Performance has acted on a waiver request, the institution may ask the committee to reconsider its decision if the institution submits new information that was not available to institution at the time the original appeal was filed. Request with new

information may not be considered by the Board of Directors subcommittee until the committee has reviewed the new information. An explanation must be included to clarify the reason(s) the new information was not originally available. The committee will determine if information is new for all reconsideration requests. If the information is new, the committee will re-open the case, and make a decision based on the new information. This process does not require another in person hearing and may be done in any manner deemed appropriate by the committee. If the information is not considered new the committee decision will not be reconsidered, but the case may be appealed to the Board subcommittee.

Board of Directors Subcommittee Review

Appeal of Committee Decision

A subcommittee of the Board of Directors, selected at the Board's discretion in number and members, has legislated authority to consider appeals of committee decisions involving Bylaw 23.2.1.2.3 Occasion-Three Penalties provided the basis for appeal meets the review standard.

After the Committee on Academic Performance has rendered a decision, the institution may appeal the decision to a subcommittee of the Board of Directors. The subcommittee's decision is final and is not subject to further review by any other authority.

In appealing a Committee on Academic Performance decision the institution must demonstrate that the committee abused its discretion in applying the legislation and/or policy and procedures of the APP. The institution may not present new information or data in its appeal that was not presented to the Committee on Academic Performance.

Generally, the subcommittee will make the determination as to whether this criteria has been met. However, the chair, or acting chair, does have the discretion to determine that an institution's appeal does not meet the review standard. If he or she determines that the appeal does not meet the review standard, the chair will notify the institution that the appeal will not be heard by the subcommittee. The chair's decision is final and not subject to further review.

Review Standard

Abuse of discretion occurs when the Committee on Academic Performance:

- Fails to follow NCAA legislation and/or established APP policies and procedures, and the failure to adhere to legislation or policies reasonably could have resulted in a different decision by Committee on Academic Performance.

Recording

The subcommittee may record and/or have present a recording clerk during all Occasion-Three and -Four appeal hearings.

Conflict of Interest

A Board of Directors subcommittee member must recuse himself or herself from participation in an appeal in which he or she is personally connected with an institution or conference. A Board subcommittee member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the processing of an appeal. It is the responsibility of the Board of Directors subcommittee member to remove himself or herself if a conflict exists. Institutional objections to a Board of Directors subcommittee member participating in the review of an appeal must be raised to the Board of Directors subcommittee chair or NCAA staff member prior to review of the appeal.

In the event that the Board of Directors subcommittee chair must recuse him or herself or is unable to participate in the appeal, the remaining members must vote, by simple majority, to determine who will serve as "acting chair."

Board of Directors subcommittee members may not discuss a pending request with the committee members or institutional representative(s) without all parties having the opportunity to participate. The staff supporting the Board of Directors subcommittee may contact the Board of Directors subcommittee chair to arrange a teleconference or to discuss procedural matters relevant to processing an applicant's request. Further, the Board of Directors subcommittee members may contact the staff supporting the Board of Directors subcommittee to request that additional information about the case be submitted or to obtain procedural information.

Appeal Procedures

All appeals must be submitted electronically to the NCAA national office using the LSDB*i* portal. All appeals must be submitted within 21 calendar days of written notification of the Committee on Academic Performance decision. The online appeal application program will produce a signature page that must be signed by the president or chancellor.

An institution will be required to submit an appellate brief explaining its rationale for appealing the committee's decision. Specifically, the institution's appellate brief may only address how it believes that the committee abused its discretion in applying the legislation and/or policy and procedures, and how these abuses reasonably could have resulted in a different decision. The subcommittee may not hear a case de novo (e.g., over again, anew).

In addition, the appeal must identify all team penalties that the institution is appealing. The appeal will be considered a single case and will not be complete until each team penalty is addressed.

All appeals of Committee on Academic Performance decisions must be submitted electronically to the national office via the LSDBi portal within 21 calendar days of written notification of the Committee on Academic Performance's decision.

Any appeal filed after 21 calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the Board of Directors subcommittee must determine whether any appeal filed after the 21 calendar days may be considered.

The staff supporting the committee will work with the institution prior to the teleconference to prepare for the appeal. This must be done prior to the case being forwarded to the Board of Directors subcommittee.

Timeframe for Hearing

An appeal of the committee's decision regarding an Occasion-Three Penalty will be heard via teleconference before a subcommittee of the Board of Directors. After notice of the intent to appeal, the staff supporting the subcommittee will schedule a teleconference and notify the institution of the date and time. When setting the date and time for the teleconference, the subcommittee will attempt to accommodate the schedule of the institutional representatives and involved individuals. Any conflicts with the teleconference date should be communicated as soon as possible to the staff supporting the subcommittee.

Documents Reviewed by the Subcommittee

The Board of Directors subcommittee will receive and review the notice of penalty, appeal application (including supporting documents), applicant team(s) APP data and committee's decision and rationale and all documents which form the record.

Prior to the teleconference, the subcommittee will distribute to the institution an agenda of the teams to be discussed and a list of specific documents that comprise the record the subcommittee will review.

The subcommittee also may request additional documentation during the teleconference or the subcommittee's deliberations, with copies provided to all parties.

Appeal Participants

The following individuals must participate in the appeal: (a) the institution's chancellor or president; (b) the athletics director; (c) the head coach of the penalized team(s); (d) Committee on Academic Performance chair or, if different, the individual who chaired the Committee on Academic Performance hearing; and (e) any other individuals whose presence was requested by the committee. Of these groups of people only those individuals who were present for the hearing before the committee may be present during the teleconference. If any of these individuals are not available (e.g., individual is no longer employed by institution, family illness) for the hearing, the institution must notify the Board of Directors subcommittee at least 14 calendar days prior to the scheduled hearing. The subcommittee will then notify the institution as to whether it expects another individual to substitute for the unavailable individual. At the chair's discretion, the appeal may proceed without the unavailable individual.

In addition, the institution may permit four other individuals to participate in the hearing, one of which must be responsible for implementing the institution's APR Improvement Plan. An institution may have legal counsel present, and he or she must count as one of the four other individuals the institution is permitted to have attend the hearing.

Media representatives, including institutional media staff, may not be present at the hearing.

Student-athletes may not be present at the hearing.

The executive officer or one other representative of a member conference's office may be present at a waiver hearing involving a conference member.

An individual whose presence was requested by the committee may have legal counsel present; however, the individual must be present for the teleconference and counsel may not speak on the individual's behalf.

All other individuals must be approved by the Board of Directors subcommittee.

In addition, of these groups of people only those individuals who were present for the hearing before the committee may be present on for the teleconference.

NCAA staff members supporting the subcommittee must participate in all portions of the waiver appeal, including deliberations. In addition, the staff supporting the committee must participate in the appeal but may not be present for deliberations. Other NCAA staff members may participate at the discretion of the chair. At the request of a member institution or in the exercise of its own discretion, the subcommittee may exclude an individual from certain portions of the appeal.

The subcommittee chair, or acting chair, has the discretion to substitute subcommittee members in the event that a member(s) is unavailable to hear an appeal.

Introductions

The subcommittee chair or acting chair will call the meeting to order and introduce the members of the subcommittee and the staff supporting the Board of Directors subcommittee.

Following introductions of the subcommittee, the chair of the subcommittee will ask the institution to select one person to speak on behalf of the institution (designated spokesperson).

The institution will introduce its representatives, followed by conference representatives who are present.

The Committee on Academic Performance chair or acting chair will introduce himself or herself and any other committee member present on the teleconference.

The NCAA staff will then introduce themselves.

After introductions, the subcommittee chair may make announcements.

Review of the Appeal

The institution is provided an opportunity to present its basis for appealing the Committee on Academic Performance decision to the subcommittee. The institution's appeal should be based on the appellate brief submitted to the subcommittee. The institution's brief may only address, based on the facts that were presented to the Committee on Academic Performance, how it believes that the committee abused its discretion, as outlined in the review standard section, in applying the legislation and/or its policies and procedures and how such abuses could have reasonably resulted in a different outcome.

The appeal may not exceed one hour in length. The one-hour time period will conform to the following process:

The Committee on Academic Performance chair, or acting chair, will have 15 minutes to describe the facts of the appeal, applicable case precedent, the committee's decision and rationale and address the allegations that it abused its discretion in applying the legislation and/or it policies and procedures.

The institution's designated spokesperson will then have 15 minutes to describe the case and to address how it believes the committee abused its discretion in applying the legislation and/or its policies and procedures and may include comments in rebuttal to the committee's opening statement. The institution's president or chancellor and athletic director may participate in the opening statement as long as they are employed fulltime by the institution and their comments are included in the 15 minute time limit.

Following opening statements from the chair, or acting chair, of the Committee on Academic Performance and the institution, the Board of Directors subcommittee members may ask questions of all participants. Once all questions have been answered, the teleconference will conclude with the committee and institution each providing a five-minute closing statement. The closing statement must be made by the institution's spokesperson and the committee member who presented the case.

The subcommittee may ask questions at any time. Any institutional representative or committee member may be questioned on any relevant issue. It is possible that the parties will be asked to respond to questions prior to their formal presentations. The one hour period includes questioning by the subcommittee.

If the institution or Committee on Academic Performance desire to ask a question of another party, that question should be directed to the subcommittee chair, who will then decide if the question is appropriate and, if so, will direct it to the appropriate individual.

The chair of the Board of Directors subcommittee, or his or her designee, is responsible for monitoring the time.

Deliberations and Decision

At the conclusion of the appeal, the subcommittee members will deliberate. The subcommittee may request additional information from any appropriate source, including the member institution or the Committee on Academic Performance. In this event, the institution and the Committee on Academic Performance chair, or acting chair, will be given an opportunity to be represented at the time such information is provided to the subcommittee.

The standard of review for the subcommittee is that it must determine whether the institution demonstrated that the committee abused its discretion in applying the legislation and/or policy and procedures and the failure to adhere to the legislation or policies reasonably could have resulted in a different decision by the committee. As part of its deliberation, the Board of Directors subcommittee may (a) uphold the committee's decision; or (b) reverse or modify the decision if it finds the Committee on Academic Performance abused its discretion in applying the legislation and/or policy and procedures and the failure to adhere to the legislation or policies reasonably could have resulted in a different decision by the committee.

If the subcommittee reverses or modifies the decision of the Committee on Academic Performance it may render one of the following decisions:

1. **Approved:** The subcommittee determines the institution's request demonstrated evidence that the committee abused its discretion in applying the legislation and/or policy and procedures and the failure to adhere to the legislation or policies reasonably could have resulted in a different decision by the committee. Based on the evidence before it, the subcommittee determined that a waiver of Bylaw 23.2.1.2.3 was warranted. In such instances, the team will not be subject to the Occasion-Three Penalties. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, the Occasion-Three- Penalties will be assessed, rather than progressing to Occasion-Four Penalties.

2. **Conditionally Approved:** The subcommittee determines the institution's request demonstrated evidence that the committee abused its discretion in applying the legislation and/or policy and procedures and the failure to adhere to the legislation or policies reasonably could have resulted in a different decision by the committee. Based on the evidence before it, the subcommittee determined that a waiver of Bylaw 23.2.1.2.3 was warranted if specific conditions were met by the institution/team. Such conditions will be outlined by the subcommittee in the decision notification. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, Occasion-Three Penalties will be assessed rather than progressing to Occasion-Four Penalties. However, failure to meet the stated conditions will result in the decision converting to a denial and the waived penalty being implemented. In this instance, if, in the next three-

year period, the team fails to meet the established benchmarks and factor review, Occasion-Four Penalties will be assessed.

3. **Partially Approved:** The subcommittee determine the institution's request demonstrated evidence that the committee abused its discretion in applying the legislation and/or policy and procedures and the failure to adhere to the legislation or policies reasonably could have resulted in a different decision by the committee. Based on the evidence before it, the subcommittee determined a partial waiver of Bylaw 23.2.1.2.3 was warranted. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, Occasion-Four Penalties will be assessed.

Only subcommittee members and NCAA staff supporting the Board of Directors subcommittee may be present for the deliberation. A simple majority of the subcommittee members present and voting is necessary for a decision. The chair, or acting chair, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

Written (e.g., electronic) confirmation of the decision will be provided by the Board of Directors subcommittee to the institution and the committee within 21 calendar days from the date of the teleconference.

REVIEW OF CONDITIONALLY APPROVED OCCASION-THREE PENALTY WAIVERS—Determining whether the condition(s) was satisfied

The waiver case staff has authority to review conditionally approved waivers to determine whether the condition(s) was satisfied. If the condition(s) is not satisfied, the institution has the opportunity to explain to the staff why it failed to meet the condition(s) or why it believes it did not meet the stated conditions. The staff's decision may be appealed to the committee. The committee's decision is final and not subject to further review by any other authority.

Staff Review

The waiver case staff shall review the APP data and other relevant information of all institutions that had conditionally approved waivers from the previous year to confirm whether the stated condition(s) has been satisfied. The staff will conduct this review once the APR data submission correction and adjustment phases are complete.

If the stated condition(s) has been satisfied, the waiver case staff will notify the institution, in writing, that the historical penalty has been waived.
If the condition(s) is not satisfied, the waiver case staff will provide written notification that the conditionally approved waiver has not been satisfied and the team is required to impose the identified historical penalties the academic year subsequent to the notification. In addition, if

based on the most recent year's data, the team has become subject to Occasion-Four historical penalties it must apply the Occasion-Four the academic year subsequent to notification.

Furthermore, the staff will notify the institution that it may provide an explanation regarding why it failed to satisfy the condition(s) or why it believes it did meet the stated conditions(s).

The request must be submitted electronically to the NCAA national office via the LSDBI portal. Requests must be submitted within seven calendar days after the notification that the condition(s) has not been met and the institution is subject to the penalty. The online application will produce a signature page that must be signed by the institution's chancellor or president.

The request must set forth the reasons why the institution failed to meet its condition(s) or why it believes it did meet the stated condition(s) and as a result why the application of Bylaw 23.2.1.2.3 is not warranted. The institution may submit additional information that it believes is relevant to the case. The committee may request additional pertinent information before a final determination is made.

Any request filed after seven calendar days must include an explanation of why the request was not filed within the prescribed time period. The chair of the committee must determine whether any request filed after seven calendar days will be considered.

Review Standard

The staff may grant relief based on some or all of the following criteria:

1. Mitigating circumstances and whether the mitigating circumstances were within the control of the institution and/or student-athlete(s).

2. If multiple conditions were assigned, the number of conditions met and historical-academic performance of the respective team.

3. Size of variance between the team's most recent single-year APR and the APR required as the condition.

4. Improvement of the team's APR, eligibility and/or retention APR.

5. Review of the variables related to the institution's mission and resources and its relationship to the team's APR.

6. Evaluation of implementation of institution's previously submitted APR improvement plan and revisions to plan to address current issues impacting APR.
7. Any additional information provided by the institution.

Deliberations and Decisions

After reviewing all the information, the staff may render one of the following decisions:

1. **Approved:** The staff determines that the condition(s) is satisfied or the explanation provided by the institution is sufficient to satisfy the condition(s) and as a result, the institution is not subject to the Occasion-Three penalties.

2. **Denied:** The staff determines that the institution did not present circumstances that warrant relief form the staff conditional approval and as a result, the institution is subject to the Occasion-Three penalties.

Committee Review

After the staff has rendered a decision, the institution may appeal the decision to Committee on Academic Performance. The committee's decision is final and is not subject to further review by any other authority.

The request must be submitted electronically to the NCAA national office via the LSDBI portal. Requests must be submitted within seven calendar days after the notification that the condition(s) has not been met and the institution is subject to the penalty. The online application will produce a signature page that must be signed by the institution's chancellor or president.

The request must set forth the reasons why the institution failed to meet its condition(s) or why it believes it did meet the stated condition(s) and as a result why the application of Bylaw 23.2.1.2.3 is not warranted. The institution may submit additional information that it believes is relevant to the case. The committee may request additional pertinent information before a final determination is made.

Any request filed after seven calendar days must include an explanation of why the request was not filed within the prescribed time period. The chair of the committee must determine whether any request filed after seven calendar days will be considered.

Review Standard

Committee decisions will include consideration of the following:

1. Mitigating circumstances and whether the mitigating circumstances were within the control of the institution and/or student-athlete(s).

2. If multiple conditions were assigned, the number of conditions met and historical-academic performance of the respective team.
3. Size of variance between the team's most recent single-year APR and the APR required as the condition.

4. Improvement of the team's APR, eligibility and/or retention APR.

5. Review of the variables related to the institution's mission and resources and its relationship to the team's APR.

6. Implementation of the team's previously submitted APR Improvement Plan and assessment and development of an updated plan.

Conflict of Interest

A Committee on Academic Performance member must recuse himself or herself from participation in a review in which he or she is personally connected with an institution or conference. A Committee on Academic Performance member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the review. It is the responsibility of the Committee on Academic Performance member to remove himself or herself if a conflict exists. Institutional objections to a Committee on Academic Performance member participating in the review must be raised to the Committee on Academic Performance chair or NCAA staff member prior to review.

In the event that the Committee on Academic Performance chair must recuse him or herself or is unable to participate in the waiver, the remaining members must vote, by simple majority, to determine who will serve as "acting chair."

Deliberations and Decisions

The committee will receive the original staff conditional approval decision, staff decision regarding condition(s) not being met, the institution's request and supporting documentation and the team(s) APP data.

The committee may conduct its deliberations by facsimile, teleconference, electronic mail, Internet or in-person meeting. Such deliberations shall include only committee members and NCAA staff members supporting the committee.

A simple majority of the committee members present and voting is necessary for a decision. The chair, or acting chair, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.
After reviewing all information, the committee will render one of the following decisions:

1. **Approved:** The committee determines that the condition(s) is satisfied or the explanation provided by the institution is sufficient to satisfy the condition(s) and as a result, the institution is not subject to the Occasion-Three penalties.

2. **Denied:** The committee determines that the institution did not present circumstances that warrant relief form the staff conditional approval and as a result, the institution is subject to the Occasion-Three penalties.

If relief is not provided, the institution will be notified to impose the historical penalty the academic year subsequent to notification. Additionally, if the team has become subject to historical penalties in the current academic year, it will then also be subject to the next occasion of penalty within the historical-penalty structure. If the institution seeks relief from the next occasion of penalty, the Committee on Academic Performance has the discretion to provide flexibility to institution's regarding the timeframe for imposing penalties. Specifically, the committee may decide to permit an institution to impose the penalties over a multiyear period. The committee may decide what penalties to extend and when. Such determinations will be made as part on the institution's waiver appeal deliberations and provided in the committee's written decision.

The committee's decision is final and not subject to further review by any other authority.

Written (e.g., electronic) confirmation of the decision must be provided by the committee to the institution within 21 calendar days of the decision.

OCCASION-FOUR PENALTIES (BYLAW 23.2.1.2.4 – MEMBERSHIP STATUS and other applicable penalties)

The NCAA staff has limited authority to render decisions for Occasion-Four waiver requests. Specifically, the staff is permitted to approve or conditionally approve a waiver request. The staff does not have the authority to partially approve or deny an Occasion-Four waiver request.

All Occasion-Four waivers must be reviewed initially by the staff. If the staff does not approve or conditionally approve a waiver, it must forward the waiver to the Committee on Academic Performance. The full committee will review the waiver and the committee's decision may be appealed to a subcommittee of the Board of Directors if the basis for appeal meets the stated criteria.

Recording
The committee may record and/or have present a recording clerk during all Occasion-Three and -Four appeal hearings.

Application Procedures

All Occasion-Four Penalty waivers (i.e., seek relief of some or all applicable penalties or to delay imposing penalty) must be submitted electronically to the NCAA national office via the LSDB*i* portal. Waivers must be submitted within 21 calendar days of the institution entering the penalty waiver period. The online waiver application program will produce a signature page that must be signed by the institution's chancellor or president.

The waiver must set forth the reasons the institution believes that application of Bylaw 23.2.1.2.4 (e.g., Occasion-Four penalties) should be waived. The waiver must identify all team(s) subject to membership-status penalties that an institution wishes to be waived by the Committee on Academic Performance. The waiver will be considered a single waiver case and will not be complete until each team penalty is addressed. The institution may include additional information and supporting documentation it considers is relevant to its request.

The NCAA staff/committee may request additional pertinent information before a decision is rendered.

A waiver filed after the 21 calendar day period must include an explanation of why the waiver was not filed within the prescribed time period. The chair, or acting chair, of the committee must determine whether any waiver filed after 21 calendar days may be considered.

Definitions

Refer to Occasion-Three section for applicable definitions.

Staff Review

Review Standards

Staff decisions will include consideration of the following:

1. The waiver directive approved by the committee.

2. Mitigating circumstances and whether the mitigating circumstances were within the control of the member institution and/or student-athlete(s).

3. Historical academic performance of the respective team(s) and/or student-athlete(s).

4. Number of teams at the institution subject to historical penalties.

5. Size of variance between the team's APR/GSR and the historical-penalty "benchmark."

6. History of penalties and waivers (e.g., contemporaneous penalties, APR adjustments, historical penalties, progress-toward-degree waivers, initial-eligibility waivers) for affected team and/or student-athlete(s).

7. Review of the institution's mission and its relationship to any team APR, GSR or Federal Graduation Rate.

8. Development and submission of an APR improvement plan and review of previously created and implemented APR improvement plan(s).

9. Other factors deemed relevant to the waiver.

On receipt of an institution's request, an assigned NCAA waiver case staff member will review the application to ensure it is complete, e-mail the institution's designated contact person regarding the status of the request and identify the NCAA waiver case staff member handling the request. A request will not be processed and reviewed until all required documentation has been received by the staff.

The waiver case staff will review the waiver request and communicate with the institution regarding any additional information necessary for the waiver.

The waiver case staff may approve or conditionally approve the waiver. If the waiver case staff does not reach either decision, it must forward the waiver to the committee for a hearing. The waiver case staff has 14 calendar days, from the time the waiver file is complete, to render a decision or forward the waiver to the committee.

After reviewing all information, the waiver case staff will either forward the waiver to the committee for review or render one of the following decisions:

1. **Approved:** The waiver case staff, on behalf of the committee, determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.4 was warranted. In such instances, the institution will not be subject to the applicable Occasion-Four Penalties. If, in the following three-year period, the team again fails to meet the established benchmarks and factor review, Occasion-Four Penalties will be assessed at that time.

2. **Conditionally Approved:** The waiver case staff, on behalf of the committee, determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.4 was warranted if specific conditions were met by the institution/team. Such conditions will be outlined by the committee in the decision notification. If, in the following three-year period, the team again fails to meet the established benchmarks and factor review, Occasion-Four Membership-Status Penalties will be assessed. However, failure to meet

the stated conditions will result in the decision converting to a denial and the waived penalty being implemented.

Written (e.g., electronic) confirmation of the decision must be provided by the waiver case staff to the institution within 14 days of its decision.

Acceptance of Conditions

The institution has seven calendar days to accept, in writing, the waiver case staff conditional approval and stated condition(s). If the institution accepts this outcome, the institution must meet the condition(s) as outlined in the decision. However, if the institution does not accept the conditional approval and stated condition(s), the waiver case staff will forward the waiver to the Committee on Academic Performance. The committee will review the waiver de novo (anew) at an in-person hearing according to the procedures outlined in the committee review section below. The committee may approve, conditionally approve, partially approve or deny the waiver.

Reconsideration

After the waiver case staff has issued a decision, the institution may ask the staff to reconsider its decision if the institution submits new information that was not available to the institution at the time the original waiver was filed. Requests with new information may not be considered by the committee until the waiver case staff has reviewed the new information.

Reporting Staff Decision

The waiver case staff shall submit summaries of all decisions made by the waiver case staff for committee review. The summaries shall not provide institutional names.

Committee Review

The committee has authority to consider waivers of Occasion-Four Historical Penalties. The committee will review all waivers by all committee members present and voting at an in-person hearing. The committee has authorized the NCAA staff to support the committee (hereafter referred to as the "staff supporting the committee"). The staff supporting the committee has separate and distinct duties from the waiver case staff.

Review Standard

The committee will generally review each team separately, usually in the order contained the notice of penalty. However, the committee may review teams together if the rationales for the waivers are similar.

Committee decisions will include consideration of the following:

1. Mitigating circumstances and whether the mitigating circumstances were within the control of the member institution and/or student-athlete(s).
2. Historical academic performance of the respective team(s) and/or student-athlete(s).
3. Number of teams at the institution subject to historical penalties.
4. Size of variance between the team's APR/GSR and the historical-penalty "benchmark."
5. History of penalties and waivers (e.g., contemporaneous penalties, APR adjustments, historical penalties, progress-toward-degree waivers, initial-eligibility waivers) for affected team and/or student-athlete(s).
6. Review of the institution's missions and its relationship to any team APR, GSR or Federal Graduation Rate.
7. Development and submission of an APR improvement plan and review of a previously created and implemented APR improvement plan(s).
8. Other factors deemed relevant to the waiver.

Conflict of Interest

A Committee on Academic Performance member must recuse himself or herself from participation in a waiver in which he or she is personally connected with an institution or conference. A committee member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the processing of a waiver. It is the responsibility of the committee member to remove himself or herself if a conflict exists. Institutional objections to a committee member participating in the review of a waiver must be raised with the committee chair or staff member when submitting the waiver in LSDBi.

In the event that the committee chair must recuse him or herself or is unable to participate in the appeal, the remaining members must vote, by simple majority, to determine who will serve as "acting chair."

Committee members may not discuss a pending request with the waiver case staff or institutional representative without all parties having the opportunity to participate. Waiver case staff may communicate with the committee and institution regarding logistical and hearing information (e.g., time, place, date of a waiver). The staff supporting the committee may contact the Committee on Academic Performance chair to arrange a teleconference or to discuss procedural matters relevant to processing an institution's request. Further, the committee members may contact the staff supporting the committee to request that additional information about the case be submitted or to obtain procedural information.

Hearing Costs

The Committee on Academic Performance is responsible for actual and necessary expenses for NCAA staff and committee members. In addition, the committee is responsible for expenses related to reserving the hearing room.

The institution is responsible for all costs related to the appeal hearing for its institutional officers and staff members, including those staff members whose presences is requested by the Committee on Academic Performance (this may include former staff members).

The conference office is responsible for all costs related to the waiver hearing for its staff members, including those staff members whose presence is requested by the Committee on Academic Performance (this may include former staff members).

Timeframe for Hearing

A waiver of Occasion-Four penalties will be heard in person, before all committee members in attendance at the hearing. The waiver case staff will schedule a hearing and notify the institution and the committee of the time, date and location. When setting the date and time for the hearing, the committee will attempt to accommodate the schedule of the institution's representatives. Any conflicts with the hearing should be communicated as soon as possible to the waiver case staff. The length of time for the hearing shall be left to the discretion of the committee chair, or acting chair.

Documents Reviewed by the Committee

The Committee on Academic Performance will receive and review the notice of penalty, waiver application (including supporting documents), applicant team(s) APP data (e.g., APR, GSR, contemporaneous-penalty information, historical-penalty information), APR Improvement Plans and any other information it deems appropriate.

Any additional documentary information/data that the institution would like the committee to review must be received by waiver case staff at least 14 calendar days prior to the hearing. The waiver case staff must distribute the documents to the committee, institution and individuals whose presence is requested by the committee not less than seven calendar days prior to the scheduled hearing.

Prior to the hearing, the Committee on Academic Performance will distribute to the institution and individuals whose presence is requested by the committee an agenda of the teams to be discussed and a list of specific documents that comprise the record the committee will review.

Subject to the approval of the Committee on Academic Performance, for good-cause shown, additional documents may be submitted at the hearing, provided copies (at least 40), are available for all in attendance.

The Committee on Academic Performance also may request additional documentation during the hearing or the committee's deliberations, with copies provided to all parties.

Waiver Hearing Participants

The following individuals must participate in the waiver hearing: (a) the institution's chancellor or president; (b) the athletics director; (c) the head coach of the penalized team(s) and (d) any other individuals whose presence was requested by the committee. If any of these individuals is not available (e.g., individual is no longer employed by institution) for the hearing, the institution must notify the committee at least 14 calendar days prior to the scheduled hearing. The committee will then notify the institution as to whether it expects another individual to substitute for the unavailable individual. At the chair's discretion, the appeal may proceed without the unavailable individual.

In addition, the institution may permit four other individuals to participate in the hearing, one of which must be responsible for implementing the institution's APR Improvement Plan. An institution may have legal counsel present, and he or she must count as one of the four other individuals the institution is permitted to have attend the hearing.

Media representatives, including institutional media staff, may not be present at the hearing.

Student-athletes may not be present at the hearing.

The executive officer or one other representative of a member conference's office may be present at a waiver hearing involving a conference member.

NCAA staff members supporting the committee must participate in all portions of the waiver hearing including deliberations. In addition, the waiver case staff must participate in the hearing and present to the committee. Waiver case staff and the staff supporting the Board of Directors subcommittee shall not be present for committee deliberations. Other NCAA staff members may participate at the discretion of the chair.

The Committee on Academic Performance has the authority to request that institution officials and staff members, including coaches, appear before it. Further, the committee has the authority to request that former institutional staff or conference office members appear before it**.** These individuals will be referred to as "involved individuals." An involved individual may have legal counsel present; however, the involved individual must be present at the hearing and counsel may not speak on the individual's behalf.

All other individuals must be approved by the committee.

At the request of a member institution or at its own discretion, the committee may exclude an individual from certain portions of the waiver hearing. Such decision may be made by the chair, or acting chair.

Introductions

The Committee on Academic Performance chair, or acting chair, will call the meeting to order and introduce the members of the committee and NCAA staff members supporting the committee.

The institution will introduce its representatives followed by any involved individual and conference office representatives.

The waiver case staff will then introduce themselves.

After introductions, the committee chair may make announcements.

Opening Statement

The waiver case staff and institution each will be provided an opportunity to make a brief opening statement to the committee.

An opening statement shall be limited to not more than 15 minutes. The waiver case staff will first provide opening statements, followed by the institution.

The waiver case staff will provide a review of the team's APP history, the conditions (if appropriate) data and information (e.g., APR, GSR, contemporaneous-penalty information, historical-penalty information, APR Improvement Plan review, institutional mission information) as well as any relevant academic-waiver data (e.g., progress-toward-degree information, initial-eligibility information) and information request by the committee.

The institution's president or chancellor must provide an opening statement. In addition, the institution will provide a brief summary of the case and set forth the rationale for the waiver request and may include comments in rebuttal to the staff's opening statement. This statement may be made by any of the institution's representatives. All speakers in the opening statement and their comments are included in the institution's 15 minute time limit.

The committee chair, or his or her designee, is responsible for monitoring the time.

Question and Answer

Following opening statements, the committee members may ask questions of all participants. Additionally, committee members may ask questions at any time during the discussion of a

waiver. Any institutional representative, conference office representative or involved individual may be questioned by the committee on any relevant issue. It is possible that the parties will be requested to respond to questions prior to their formal presentations.

If the institution or waiver case staff wishes to ask a question of another individual, that question should be directed to the Committee on Academic Performance chair, who will then decide if the question is appropriate and will direct it to the appropriate individual.

The length of time for questions and answers shall be left to the discretion of the committee chair, or acting chair.

Closing Statements

After the question and answer period, the Committee on Academic Performance will hear brief closing statements from the waiver case staff and institution. The closing statement must be made by the institution's spokesperson and the waiver case staff member who presented the case. The closing statement may not exceed 10 minutes.

The waiver case staff will make its closing statement first and then the institution.

Closing statements are not intended to discuss the details of the waiver request, present new information or to make new assertions. The closing statement provides the staff and institution an opportunity for each party to summarize the discussions that occurred during the hearing and to provide a brief statement regarding the case. The institution's closing statement also allows the institution an opportunity to rebut any statements made by the waiver case staff.

Deliberations and Decision

At the conclusion of the waiver hearing, the committee members will deliberate. As part of its deliberation, the committee may request additional information from any appropriate source, including the institution or the waiver case staff. In this event, the institution and the waiver case staff will be given an opportunity to be represented at the time such information is provided to the committee.

Only Committee on Academic Performance members and NCAA staff supporting the committee (but not the NCAA staff member who presented the case) may be present for the deliberation. Other NCAA staff may be present for the deliberations at the discretion of the committee chair or acting chair. However, the waiver case staff who presents the case and the staff supporting the Board of Directors Subcommittee shall not be present.

A simple majority of the committee members present and voting is necessary for a decision. The chair, or acting chair, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

After reviewing all information, the Committee on Academic Performance will render one of the following decisions:

1. **Approved:** The committee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.4 was warranted. In such instances, the team will not be subject to the Occasion-Four Penalty. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, the Occasion-Penalties will be assessed.

2. **Conditionally Approved:** The committee determines the institution's request demonstrated evidence that a waiver of Bylaw 23.2.1.2.4 was warranted if specific conditions were met by the institution/team. Such conditions will be outlined by the committee in the decision notification. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, Occasion-Four penalties will be assessed. However, failure to meet the stated conditions will result in the decision converting to a denial and the waived penalty being implemented. Additionally, the committee has the authority to apply the penalty only to the poor-performing team(s) rather than the entire institution. In this instance, if, in the next three-year period, the team(s) fails to meet the established benchmarks and factor review, Occasion-Four Penalties will be assessed.

3. **Partially Approved:** The committee determines the institution's request demonstrated evidence that a partial waiver of Bylaw 23.2.1.2.4 was warranted. As part of a partial approval decision, the committee has the authority to apply the penalty only to poor-performing teams rather than the entire institution. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, Occasion-Four Penalties will be assessed.

4. **Denied:** The committee determines the institution's request did not demonstrate circumstances warranting a waiver of Bylaw 23.2.1.2.4. The institution will be responsible for applying the designated penalty or penalties.

Written (e.g., electronic) confirmation of the decision will be provided by the Committee on Academic Performance to the institution within 21 calendar days of the committee's decision.

Reconsideration

After the committee has acted on a waiver request, the institution may ask the committee to reconsider its decision if the institution submits new information that was not available to institution at the time the original waiver was filed. Request with new information may not be considered by the Board of Directors subcommittee until the committee has reviewed the new information. An explanation must be included to clarify the reason(s) the new information was not originally available. The committee will determine if information is new for all reconsideration requests. If the information is new, the committee will re-open the case, and make a decision based on the new set of facts. This process does not require another in-person hearing and may be done in any manner deemed appropriate by the committee. If the information is not considered to be new, the committee decision will not be reconsidered; but, the case may be appealed to the Board of Directors subcommittee.

Board of Directors Subcommittee Review

Appeal of Committee Decision

A subcommittee of the Board of Directors, selected at the Board's discretion in number and members, has legislated authority to consider appeals of Committee on Academic Performance decisions involving Bylaw 23.2.1.2.4, Occasion-Four Penalties, provided the basis for the appeal meets the review standard. The subcommittee's decision is final and is not subject to further review by any other authority.

In appealing a Committee on Academic Performance decision, an institution must demonstrate that the committee abused its discretion in applying the legislation and/or policy and procedures of the APP. The institution may not present new information or data in its appeal that was not presented to the Committee on Academic Performance.

Generally, the subcommittee will make the determination as to whether this criteria has been met. However, the chair, or acting chair, does have the discretion to determine that an institution's appeal does not meet the review standard. If he or she determines that the appeal does not meet the review standard, the chair will notify the institution that the appeal will not be heard by the subcommittee. The chair's decision is final and not subject to further review.

Review Standard

Abuse of discretion occurs when the Committee on Academic Performance:

- Fails to follow NCAA legislation and/or established APP policies and procedures, and the failure to adhere to legislation or policies reasonably could have resulted in a different decision by Committee on Academic Performance.

Conflict of Interest

A Board of Directors subcommittee member must recuse himself or herself from participation in an appeal in which he or she is personally connected with an institution or conference. A subcommittee member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the processing of an appeal. It is the responsibility of the subcommittee member to remove himself or herself if a conflict exists. Institutional objections to a subcommittee member participating in the review of an appeal must be raised with the subcommittee chair or staff member prior to review of the appeal.

In the event that the subcommittee chair must recuse him or herself or is unable to participate in the appeal, the remaining members must vote, by simple majority, to determine who will serve as "acting chair."

Subcommittee members may not discuss a pending request with the Committee on Academic Performance or institutional representative without all parties having the opportunity to participate. The staff supporting the subcommittee may contact the subcommittee chair to arrange a teleconference or to discuss procedural matters relevant to processing an institution's request. Further, the subcommittee members may contact the staff supporting the subcommittee to request that additional information about the case be submitted or to obtain procedural information.

Recording

The subcommittee may record and/or have present a recording clerk during all Occasion-Three and –Four appeal hearings.

Appeal Procedures

All appeals must be submitted electronically to the NCAA national office via the LSDB*i* portal. Appeals must be submitted within 21 calendar days of written notification of the Committee on Academic Performance decision. The online appeal application program will produce a signature page that must be signed by the chancellor or president.

An institution will be required to submit an appellate brief explaining its rationale for appealing the committee's decision. Specifically, the institution's appellate brief may only address how it believes that the committee abused its discretion in applying the legislation and/or policy and procedures. The subcommittee may not hear a case de novo (e.g., over again, anew).

In addition, the appeal must identify all teams subject to membership-status penalties that the institution wishes to appeal. The appeal will be considered a single case and will not be complete until each team penalty is addressed.

Any appeal filed after 21 calendar days must include an explanation of why the appeal was not filed within the prescribed time period. The chair of the subcommittee must determine whether any appeal filed after the 21 calendar days may be considered.

The staff supporting the committee will work with the institution prior to the teleconference to verify facts, case precedent and data submitted. This must be done prior to the case being forwarded to the subcommittee.

Timeframe for Hearing

An appeal of the committee's decision regarding an Occasion-Four penalty will be heard via teleconference before a subcommittee of the Board of Directors. After notice of the intent to appeal, the staff supporting the subcommittee will schedule a teleconference and will notify the institution and committee of the time and date. When setting the date and time for the teleconference, the subcommittee will attempt to accommodate the schedule of the institutional representatives. Any conflicts with the teleconference should be communicated as soon as possible to the NCAA staff supporting the Board of Directors subcommittee.

Documents Reviewed by the Subcommittee

The Board of Directors subcommittee will receive and review the notice of penalty, appeal application (including supporting documents), applicant team(s) APP data and Committee on Academic Performance's decision and rationale and all documents part of the record.

Prior to the teleconference, the Board of Directors subcommittee will distribute to the institution and the Committee on Academic Performance an agenda of the teams to be discussed and a list of specific documents that comprise the record the subcommittee will review.

The subcommittee also may request additional documentation during the teleconference or the subcommittee's deliberations, with copies provided to all parties.

Appeal Participants

The following individuals must participate in the appeal: (a) the institution's chancellor or president; (b) the athletics director; (c) the head coach of the penalized team(s); (d) Committee on Academic Performance chair or, if different, the individual who chaired the Committee on Academic Performance hearing; and (e) any other individuals whose presence was requested by the committee. Of these groups of people only those individuals who were present for the

hearing before the committee may be present during the teleconference. If any of these individuals are not available (e.g., individual is no longer employed by the institution, family illness) for the hearing, the institution must notify the Board of Directors subcommittee at least 14 calendar days prior to the scheduled hearing. The subcommittee will then notify the institution as to whether it expects another individual to substitute for the unavailable individual. At the chair's discretion, the appeal may proceed without the unavailable individual.

In addition, the institution may permit four other individuals to participate in the hearing, one of which must be responsible for implementing the institution's APR Improvement Plan. An institution may have legal counsel present, and he or she must count as one of the four other individuals the institution is permitted to have attend the hearing.

Media representatives, including institutional media staff, may not be present at the hearing.

Student-athletes may not be present at the hearing.

The executive officer or one other representative of a member conference's office may be present at an appeal involving a conference member.

An individual whose presence was requested by the committee may have legal counsel present; however, the individual must be present for the teleconference and counsel may not speak on the individual's behalf.

All other individuals must be approved by the Board of Directors subcommittee.

In addition, of these aforementioned groups of people only those individuals who were present for the hearing before the committee may be present on the teleconference.

NCAA staff supporting the subcommittee must participate in all portions of the waiver appeal including deliberations. In addition, NCAA staff supporting the committee must participate in the appeal but may not participate in deliberations. Other NCAA staff members may participate at the discretion of the chair.

At the request of a member institution or at its own discretion, the subcommittee may exclude any individual from certain portions of the appeal.

All other individuals must be approved by the Board of Directors subcommittee.

The subcommittee chair, or acting chair, has the discretion to substitute subcommittee members in the event that a member(s) is unavailable to hear an appeal.

<u>Introductions</u>

The subcommittee chair, or acting chair, will call the meeting to order and introduce the members of the subcommittee and the staff supporting the Board of Directors subcommittee.

Following introductions of the subcommittee, the chair of the subcommittee will ask the institution to select one person to speak on behalf of the institution (designated spokesperson).

The institution will introduce its representatives followed by conference representatives who are present.

The chair of the Committee on Academic Performance will introduce himself or herself and any committee members in attendance.

The NCAA staff will then introduce themselves.

After introductions, the subcommittee chair may make announcements.

Review of the Appeal

The institution is provided an opportunity to present its basis for appealing the committee decision to the subcommittee. The institution's appeal should be made from the appellate brief submitted to the subcommittee. The institution's brief may only address, based on the facts that were presented to the committee, how it believes that the committee abused its discretion in applying the legislation and/or its policies and procedures as outlined in the "review standard" section.

The appeal may not exceed one hour in length. The one hour time period will conform to the following process:

The Committee on Academic Performance chair or acting chair will have 15 minutes to describe the facts of the appeal, applicable case precedent, the committee's decision and rationale and address the allegations that it abused its discretion in applying the legislation and/or its policies and procedures and how such abuses could have reasonably resulted in a different outcome.

The institution's designated spokesperson will then have 15 minutes to describe the case and address how it believes that the committee abused its discretion in applying the legislation and/or its policies and procedures and may include comments in rebuttal to the committee's opening statement. The institution's president or chancellor and athletic director may participate in the opening statement as long as they are employed fulltime by the institution and their comments are included in the 15 minute time limit.

Following opening statements from the chair of the Committee on Academic Performance and the institution, the Board of Directors subcommittee members may ask questions of all participants. Once all questions have been answered, the teleconference will conclude with the

committee and institution each providing a five-minute closing statement. The closing statement must be made by the institution's spokesperson and the committee member who presented the case.

The Board of Directors subcommittee members may ask questions at any time. Any institutional representative or committee chair may be questioned on any relevant issue. It is possible that the parties will be asked to respond to questions prior to their formal presentations. The one-hour period includes questioning by the Board of Directors subcommittee.

If the institution or Committee on Academic Performance desire to ask a question of another party, that question should be directed to the subcommittee chair, who will then decide if the question is appropriate and will direct it to the appropriate individual.

The chair of the Board of Directors subcommittee, or his or her designee, is responsible for monitoring time.

Deliberations and Decision

At the conclusion of the appeal, the Board of Directors subcommittee members will deliberate.

The subcommittee may request additional information from any appropriate source, including the institution or the Committee on Academic Performance. In this event, the institution and the committee chair will be given an opportunity to be represented at the time such information is provided to the subcommittee.

The standard of review for the Board of Directors subcommittee is that it must determine whether the institution was able to demonstrate that the committee abused its discretion in applying the legislation and/or policy and procedures and the failure to adhere to the legislation or policies reasonably could have resulted in a different decision by the committee. As part of its deliberation, the Board of Directors subcommittee may (a) uphold the committee's decision; or (b) reverse or modify the decision if it finds the Committee on Academic Performance abused its discretion in applying the legislation and/or policy and procedures and the failure to adhere to the legislation or policies reasonably could have resulted in a different decision by the committee.

If the subcommittee reverses or modifies the decision of the Committee on Academic Performance it may render one of the following decisions:

1. **Approved:** The subcommittee determines the institution's request demonstrated evidence that the committee abused its discretion in applying the legislation and/or policy and procedures and the failure to adhere to the legislation or policies reasonably could have resulted in a different decision by the committee. Based on the evidence before it,

the subcommittee determined a waiver of Bylaw 23.2.1.2.4 was warranted. In such instances, the team will not be subject to the Occasion-Four Penalties. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, the Occasion-Four- Penalty will be assessed.

2. **Conditionally Approved:** The committee determines the institution's request demonstrated evidence the committee abused its discretion in applying the legislation and/or policy and procedures and the failure to adhere to the legislation or policies reasonably could have resulted in a different decision by the committee. Based on the evidence before it, the subcommittee determined that a waiver of Bylaw 23.2.1.2.4 was warranted if specific conditions were met by the institution/team. Such conditions will be outlined by the subcommittee in the decision notification. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, Occasion-Four Penalties will be assessed. However, failure to meet the stated conditions, will result in the decision converting to a denial and the waived penalty being implemented. In this instance, if, in the next three-year period, the team fails to meet the established benchmarks and factor review, Occasion-Four Penalties will be assessed.

3. **Partially Approved:** The committee determines the institution's request demonstrated evidence that the committee abused its discretion in applying the legislation and/or policy and procedures and the failure to adhere to the legislation or policies reasonably could have resulted in a different decision by the committee. Based on the evidence before it, the subcommittee determined a partial waiver of Bylaw 23.2.1.2.4 was warranted. If, in the following three-year period, the team fails to meet the established benchmarks and factor review, Occasion-Four Penalties will be assessed.

Only subcommittee members and NCAA staff supporting the Board of Directors subcommittee may be present for the deliberation. A simple majority of the subcommittee members present and voting is necessary for a decision. The chair, or acting chair, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

Written (e.g., electronic) confirmation of the decision must be provided by the Board of Directors subcommittee to the institution within 21 calendar days of the teleconference.

REVIEW OF CONDITIONALLY APPROVED OCCASION-FOUR PENALTY WAIVERS—Determining whether the condition(s) was satisfied

The waiver case staff has authority to review conditionally approved waivers to determine whether the condition(s) was satisfied. If the condition(s) is not satisfied, the institution has the opportunity to explain to the staff why it failed to meet the condition(s) or why it believes it did

meet the stated conditions. The staff's decision may be appealed to the committee. The committee's decision is final and not subject to further review by any other authority.

Staff Review

The waiver case staff shall review the APP data and other relevant information of all institutions that had conditionally approved waivers from the previous year to confirm whether the stated condition(s) has been satisfied. The staff will conduct this review once the APR data submission correction and adjustment phases are complete.

If the stated condition(s) has been satisfied, the waiver case staff will notify the institution, in writing, that the historical penalty has been waived.

If the condition(s) is not satisfied, the waiver case staff will provide written notification that the conditionally approved waiver has not been satisfied and the team is required to impose the identified historical penalties. Furthermore, the staff will notify the institution that it may provide an explanation regarding why it failed to satisfy the condition(s) or why it believes it did meet the stated conditions(s).

The request must be submitted electronically to the NCAA national office via the LSDBI portal. Requests must be submitted within seven calendar days after the notification that the condition(s) has not been met and the institution is subject to the penalty. The online application will produce a signature page that must be signed by the institution's chancellor or president.

The request must set forth the reasons why the institution failed to meet its condition(s) or why it believes it did meet the stated condition(s) and as a result why the application of Bylaw 23.2.1.2.4 is not warranted. The institution may submit additional information that it believes is relevant to the case. The committee may request additional pertinent information before a final determination is made.

Any request filed after seven calendar days must include an explanation of why the request was not filed within the prescribed time period. The chair of the committee must determine whether any request filed after seven calendar days will be considered.

Review Standard

The staff may grant relief based on some or all of the following criteria:

1. Mitigating circumstances and whether the mitigating circumstances were within the control of the institution and/or student-athlete(s).

2. If multiple conditions were assigned, the number of conditions met and historical-academic performance of the respective team.

3. Size of variance between the team's most recent single-year APR and the APR required as the condition.

4. Improvement of the team's APR, eligibility and/or retention APR.

5. Review of the variables related to the institution's mission and resources and its relationship to the team's APR.

6. Evaluation of implementation of institution's previously submitted APR improvement plan and revisions to plan to address current issues impacting APR.

7. Any additional information provided by the institution.

Deliberations and Decisions

After reviewing all the information, the staff may render one of the following decisions:

1. **Approved:** The staff determines that the condition(s) is satisfied or the explanation provided by the institution is sufficient to satisfy the condition(s) and as a result, the institution is not subject to the Occasion-Four penalties.

2. **Denied:** The staff determines that the institution did not present circumstances that warrant relief form the staff conditional approval and as a result, the institution is subject to the Occasion-Four penalties.

Committee Review

After the staff has rendered a decision, the institution may appeal the decision to Committee on Academic Performance. The committee's decision is final and is not subject to further review by any other authority.

The request must be submitted electronically to the NCAA national office via the LSDBI portal. Requests must be submitted within seven calendar days after the notification that the condition(s) has not been met and the institution is subject to the penalty. The online application will produce a signature page that must be signed by the institution's chancellor or president.

The request must set forth the reasons why the institution failed to meet its condition(s) or why it believes it did meet the stated condition(s) and as a result why the application of Bylaw 23.2.1.2.4 is not warranted. The institution may submit additional information that it believes is

relevant to the case. The committee may request additional pertinent information before a final determination is made.

Any request filed after seven calendar days must include an explanation of why the request was not filed within the prescribed time period. The chair of the committee must determine whether any request filed after seven calendar days will be considered.

Review Standard

Committee decisions will include consideration of the following:

1. Mitigating circumstances and whether the mitigating circumstances were within the control of the institution and/or student-athlete(s).

2. If multiple conditions were assigned, the number of conditions met and historical-academic performance of the respective team.

3. Size of variance between the team's most recent single-year APR and the APR required as the condition.

4. Improvement of the team's APR, eligibility and/or retention APR.

5. Review of the variables related to the institution's mission and resources and its relationship to the team's APR.

6. Implementation of the team's previously submitted APR Improvement Plan and assessment and development of an updated plan.

Conflict of Interest

A Committee on Academic Performance member must recuse himself or herself from participation in a review in which he or she is personally connected with an institution or conference. A Committee on Academic Performance member with a personal relationship or institutional affiliation that reasonably would result in any appearance of bias or prejudice should refrain from participating in any manner in the review. It is the responsibility of the Committee on Academic Performance member to remove himself or herself if a conflict exists. Institutional objections to a Committee on Academic Performance member participating in the review must be raised to the Committee on Academic Performance chair or NCAA staff member prior to review.

In the event that the Committee on Academic Performance chair must recuse him or herself or is unable to participate in the waiver, the remaining members must vote, by simple majority, to determine who will serve as "acting chair."

Deliberations and Decisions

The committee will receive the original staff conditional approval decision, staff decision regarding condition(s) not being met, the institution's request and supporting documentation and the team(s) APP data.

The committee may conduct its deliberations by facsimile, teleconference, electronic mail, Internet or in-person meeting. Such deliberations shall include only committee members and NCAA staff members supporting the committee.

A simple majority of the committee members present and voting is necessary for a decision. The chair, or acting chair, shall not vote unless there is a tie vote among present and voting members. In situations where there is a tie vote, the chair shall cast the deciding vote.

After reviewing all information, the committee will render one of the following decisions:

1. **Approved:** The committee determines that the condition(s) is satisfied or the explanation provided by the institution is sufficient to satisfy the condition(s) and as a result, the institution is not subject to the Occasion-Four penalties.

2. **Denied:** The committee determines that the institution did not present circumstances that warrant relief form the staff conditional approval and as a result, the institution is subject to the Occasion-Four penalties.

If relief is not provided, the institution will be notified to impose the historical penalty academic year subsequent to notification. Additionally, if the team has become subject to historical penalties in the current academic year, it will then also be subject to the next occasion of penalty within the historical-penalty structure. If the institution seeks relief from the next occasion of penalty, the Committee on Academic Performance has the discretion to provide flexibility to institution's regarding the timeframe for imposing penalties. Specifically, the committee may decide to permit an institution to impose the penalties over a multiyear period. The committee may decide what penalties to extend and when. Such determinations will be made as part on the institution's waiver appeal deliberations and provided in the committee's written decision.

The committee's decision is final and not subject to further review by any other authority.

Written (e.g., electronic) confirmation of the decision must be provided by the committee to the institution within 21 calendar days of the decision.

REWARDS

The Committee on Academic Performance has implemented an annual a team-centered public recognition program that highlights the academic performance of the top ten percent of teams in each sport based on NCAA Division I APR. The committee will continue attempts to identify and implement additional, meaningful incentives in future years.

ATTACHMENT C

NCAA Division I Academic Progress Rate Adjustment Directive

Background.

The NCAA Division I Academic Progress Rate (APR) is a metric that awards points for academic eligibility/graduation (E) and retention (R). Eligibility is important as it measures a student's progress toward a degree at regular intervals. Retention is a crucial part of the APR because of the following:

1. The pilot data reflected that retention is an even stronger component of graduation than eligibility.

2. By awarding points for retention, potential issues related to "run-offs" and "recruiting mistakes" could be monitored and addressed.

3. Term-by-term R points allow for a student-athlete to receive "credit" for every term he or she returns, even if he or she eventually transfers or is not retained for any reason. This "partial-credit" model has been seen as a significant improvement over the Federal Graduation Rate and is a very important consideration when assessing E + R for the APR calculation.

The NCAA Division I Committee on Academic Performance has approved this directive to provide guidance to the NCAA staff and the NCAA Division I Committee on Academic Performance Subcommittee on Data Collection and Reporting in reviewing APR adjustment requests. The committee recognizes that there may be some legitimate reasons why student-athletes are not retained and do not maintain academic eligibility, and in these instances, a student-athlete's lost points should be adjusted.

Guiding Principles.

Adjustments to a team's APR will be considered based on circumstances surrounding individual student-athletes. Adjustments generally will be reviewed in the context of whether the mitigating circumstances surrounding the individual student-athlete are beyond the control of the student-athlete and/or the team/institution.

Effect of Adjustment.

The APR is calculated by evaluating each student-athlete in the NCAA Division I Academic Performance Program (APP) cohort. Each student-athlete is able to earn two points for each regular academic term he or she is in the cohort. The E point is awarded if the student-athlete is academically eligible to compete in the next regular academic term (even if he or she has no competition in that term). The R point is awarded if the student-athlete is retained by the institution in the next regular academic term (i.e., returns to the institution as a full-time student as of the institution's census date or the fifth week of classes, whichever is earlier). Student-athletes who graduate in a term are awarded both points for that term. If a student-athlete

remains in the APP cohort after graduation, he or she is always awarded the R point for having graduated. A student-athlete who earns both points in an academic term is recorded as "2 for 2" (2/2).

A student-athlete who was not retained by an institution (did not return to the institution or did not return as a full-time student) in the next regular academic term and did not graduate will be a "1 for 2" (1/2) or a "0 for 2" (0/2) depending on whether he or she earns the E point. Likewise, a student-athlete who completed a term and was retained, but was not eligible will be a 1/2. A student-athlete who did not complete an academic term, and therefore did not earn E, and was not retained should be reported as 0/2. In all of these circumstances, it may be possible to request an adjustment to a lost point or points. Approval of an adjustment request does not result in the awarding of any lost E and/or R points. Rather it removes the lost points from both the numerator and the denominator. Thus the 1/2 becomes a 1/1, or the 0/2 becomes a 0/1 or 0/0. Please note some adjustment criteria require the earning of the E point in order for the request to be considered.

Circumstances Warranting an Adjustment of the E or R Point.

Adjustments will be granted only if stated conditions described below are met.

1. Academic Term Not Completed.

   A student-athlete who did not complete a regular academic term due to circumstances outside of his or her control (e.g., student-athlete suffers from a serious medical condition early in the academic term) and failed to earn the E and/or R point may be considered for an adjustment in the following situations. In all circumstances, contemporaneous documentation must be included. If relief for the lost R point is being requested, the documentation must clearly indicate that a student-athlete was unable to be retained by the institution as a result of the mitigating circumstances. If relief for the lost E point is being requested, the documentation must clearly demonstrate how the mitigating circumstances impacted the student-athlete's academic performance. The following mitigation will be considered:

   a. An incapacitating injury or illness to the student-athlete or an immediate family member, which is clearly supported by contemporaneous medical documentation. The documentation must clearly indicate that a student-athlete was unable to be academically successful and/or retained as a result of the incapacitating physical or mental circumstances.

   b. A natural disaster (e.g., earthquakes, floods).

c. Extreme financial difficulties as a result of a specific event (e.g., layoff, death in the family) experienced by the student-athlete or by an individual on whom the student-athlete is legally dependent. These circumstances must be clearly supported by objective documentation (e.g., decree of bankruptcy, proof of termination) and must be beyond the control of the student-athlete or the individual on whom the student-athlete is legally dependent.

d. Harassment. This circumstance must be clearly supported by contemporaneous objective documentation (e.g., police report).

e. Participation in the following Olympic or international competition:

(1) Official Pan American, World Championships, World Cup, World University Games and Olympic training, tryouts and competition;

(2) Officially recognized training and competition, qualifying for final Olympic tryouts; or

(3) Official tryouts and competition involving national teams sponsored by the appropriate national governing bodies of the U.S. Olympic Committee or, for student-athletes representing another nation, the equivalent organization of that nation.

f. Other unforeseen events and/or circumstances beyond the student-athlete's and/or institution's control that led to lost E and/or R points in a term that the student-athlete did not complete.

2. Academic Term Was Completed, Student-Athlete Not Eligible.

A student-athlete who completed a regular academic term as a full-time student may receive an adjustment to a lost E point if one of the reasons listed below applies. In all circumstances, contemporaneous documentation must be included. The documentation must clearly demonstrate how the mitigating circumstances impacted the student-athlete's academic performance. (Note: A student-athlete is not required to earn the R point). The following mitigation will be considered:

a. The student-athlete was rendered academically ineligible and the institution was not able to submit a progress-toward-degree waiver (e.g., transfer, withdrawal, no pending competition).

b. An incapacitating injury or illness to the student-athlete or an immediate family member, which is clearly supported by contemporaneous medical documentation.

The documentation must clearly indicate that a student-athlete was unable to be academically successful as a result of the incapacitating physical or mental circumstances.

c. Extreme financial difficulties as a result of a specific event (e.g., layoff, death in the family) experienced by the student-athlete or by an individual on whom the student-athlete is legally dependent. These circumstances must be clearly supported by objective documentation (e.g., decree of bankruptcy, proof of termination) and must be beyond the control of the student-athlete or the individual on whom the student-athlete is legally dependent.

d. A natural disaster (e.g., earthquakes, floods).

e. Other unforeseen events and/or circumstances beyond the student-athlete's and/or institution's control that impacted the student-athlete's ability to be academically successful.

3. Academic Term Completed, Student-Athlete Not Retained.

Student-athletes who completed a regular academic term as a full-time student but were not retained (did not return to the institution or did not return as a full-time student) may receive an adjustment to a lost R point if one of the reasons listed below applies. In all circumstances, contemporaneous documentation must be included. The documentation must clearly demonstrate how the mitigating circumstances impacted the student-athlete's ability to be retained by the institution. (Note: A student-athlete is required to earn the E point). The following mitigation will be considered:

a. The student-athlete's degree program was discontinued. This circumstance must be supported by documentation from the institution's registrar's office indicating that the student-athlete was enrolled in the specific degree program and the date the degree program was discontinued.

b. The student-athlete's degree program was not offered at the original institution. This circumstance must be supported by documentation from official institutional sources indicating that the student-athlete's degree program was not offered at the original institution and the student-athlete is enrolled in the degree program at the next institution.

c . The student-athlete's sport was discontinued. This circumstance must be supported by documentation from the institution's director of athletics indicating when the sport program was discontinued and when the announcement of the discontinuation was made.

d. An incapacitating injury or illness to the student-athlete or an immediate family member, which is clearly supported by contemporaneous medical documentation. The documentation must clearly indicate that a student-athlete was unable to be retained by the institution as a result of the incapacitating physical or mental circumstances.

e. A natural disaster (e.g., earthquakes, floods).

f. Extreme financial difficulties as a result of a specific event (e.g., layoff, death in the family) experienced by the student-athlete or by an individual on whom the student-athlete is legally dependent. These circumstances must be clearly supported by objective documentation (e.g., decree of bankruptcy, proof of termination) and must be beyond the control of the student-athlete or the individual on whom the student-athlete is legally dependent.

g. Harassment. This circumstance must be clearly supported by objective documentation (e.g., police report).

h. Participation in the following Olympic or international competition:

(1) Official Pan American, World Championships, World Cup, World University Games and Olympic training, tryouts and competition;

(2) Officially recognized training and competition, qualifying for final Olympic tryouts; or

(3) Official tryouts and competition involving national teams sponsored by the appropriate national governing bodies of the U.S. Olympic Committee or, for student-athletes representing another nation, the equivalent organization of that nation.

i. The student-athlete was not retained by the institution in one regular academic term, but he or she later returned. The student-athlete must qualify for the missed-term exception pursuant to NCAA Bylaw 14.4.3.5-(a). The student-athlete must return to the institution as a full-time student in a subsequent term and meet all criteria for the missed-term exception. A student-athlete may only have the R point adjusted one time during his or her academic career based on this mitigation.

j. The student-athlete was not retained due to other unforeseen events and/or circumstances beyond the student-athlete's and/or institution's control.

4. Professional Athletics Opportunities.

a. Initial Professional Sports Opportunity.

The student-athlete competed an academic term and was not retained due to participation in professional sports as a vocation. (Note: A student-athlete is required to earn the E point). Such participation may be demonstrated by the following:

(1) Signed contract with a professional sports team or organization;

(2) Established pattern of acceptance of prize money for competition;

(3) Documented declaration of intent to compete as a professional in an individual sport (e.g., tennis, golf); or

(4) Other evidence determined by the staff/committee to confirm the individual's professional sports vocation.

The following actions, alone, do not sufficiently demonstrate participation in professional sports as a vocation:

(1) Signing a contract with an agent;

(2) Signing a commercial endorsement agreement;

(3) Declaring for a professional sports draft; or

(4) Participating in professional sports tryouts.

b. Second Professional Sports Opportunity.

The student-athlete returned to the original institution in a regular academic term following his or her initial departure to pursue professional athletics as a vocation and subsequently lost a point(s) due to the pursuit of another professional sports opportunity, provided the student-athlete earned the E point in the term in which he or she first departed the institution to pursue professional athletics. Such participation may be demonstrated by the documents listed below. Please note that this documentation must clearly indicate that the student-athlete could not complete the regular academic term due to the second professional athletics opportunity (e.g., indicate the timing of the opportunity). If the term was

completed, the student-athlete must have earned the E point in order for the R point to be adjusted (see letter a above).

(1) Signed contract with a professional sports team or organization;

(2) Established pattern of acceptance of prize money for competition;

(3) Documented declaration of intent to compete as a professional in an individual sport (e.g., tennis, golf); or

(4) Other evidence determined by the staff/committee to confirm the individual's professional sports vocation.

The following actions, alone, do not sufficiently demonstrate participation in professional sports as a vocation:

(1) Signing a contract with an agent;

(2) Signing a commercial endorsement agreement;

(3) Declaring for a professional sports draft; or

(4) Participating in professional sports tryouts.

(Adopted: 1/2008 effective 1/2008 for the 2007-08 APR cohort, retroactive to any prior year cohorts).

5. Transfer.

a. The student-athlete was not retained because he or she transferred to another institution and meets the following criteria:

(1) The student-athlete earned the E point in the last term of enrollment prior to transfer.

(2) The student-athlete was enrolled at the institution for at least one academic year prior to transfer.

(3) The student-athlete immediately transferred to another four-year institution. This requires full-time enrollment at the new institution at the next available regular academic term.

(4) The student-athlete presents a cumulative grade-point average at the original institution of at least 2.6.

Note: This adjustment request is not filed through the LSDB*i* Portal, but rather it is filed in the APP data collection system.

b. The student-athlete was not retained because he or she transferred to another institution and meets the following criteria:

(1) The student-athlete earned the E point in the last term of enrollment prior to transfer.

(2) The student-athlete was enrolled at the institution for at least one academic year prior to transfer.

(3) The student-athlete immediately transferred to another four-year institution. This requires full-time enrollment at the new institution at the next available regular academic term.

(4) The student-athlete presents a cumulative grade-point average of at least 2.0, but less than 2.6 at the original institution and satisfies a rigorous review of academic factors (e.g., number of transferable credit hours accepted by the next institution and applicable to the student-athlete's designated degree program, positive trends in the student-athlete's academic performance, student-athlete's academic success compared to other students with similar admissions profiles).

Note: This adjustment will be subject to a very high review standard and will be filed through the LSDB*i* Portal.

Circumstances that Do Not Warrant an Adjustment of the R Point.

Circumstances that are generally considered to be within the control of the student-athlete and/or the institution include, but are not limited to, the following:

1. Student-athlete transferred to another institution for any reason not included in the section above.

2. Student-athlete departed the institution due to lack of playing time, or desire to play for a different coach.

3. Student-athlete departed the institution due to a coaching change.

4. Student-athlete departed the institution because he or she was placed on academic suspension.

5. Student-athlete departed an institution because of disciplinary actions taken at the institution (e.g., crime, academic fraud, dismissed from team, positive drug test).

6. Student-athlete departed an institution because his or her team is subject to disciplinary measure (e.g., infractions sanctions, APP penalties).

7. Student-athlete departed an institution because his or her athletically related aid was not renewed or was reduced.

Reconsideration.

An institution is permitted to request the staff reconsider APR adjustment requests that were previously denied if the APR adjustment directive is changed and the change would have affected the outcome of the original adjustment request. An institution may not request retroactive relief from contemporaneous penalties or retroactive incentives based on the award of an adjustment to data made to subsequent academic year(s). Requests for reconsideration will not be heard by the subcommittee until the staff has reviewed and considered the request. Please note that participation of a student-athlete in professional sports as a vocation is not mitigation for reconsideration of APR adjustment requests when the student-athlete failed to earn the E point.

Staff Authority in APR Adjustment Requests.

The committee has provided the staff with the authority to use its discretion in the application of this directive. Exceptions to this directive may be applied when warranted, in the staff's judgment, by the unique circumstances of a specific request. Further, the committee has afforded the staff the authority to award E and/or R points as appropriate, depending on the unique circumstances of the request.

ATTACHMENT D

Occasion-Two Historical Penalties Educational Column

Pursuant to NCAA Bylaw 23.2.1.2.2 and the NCAA Division I Academic Performance Program policies, teams subject to an Occasion-Two Historical Penalty are subject to restrictions in the areas of financial aid and playing and practice seasons.

Specific to the playing and practice season penalty, any team subject to practice restrictions must reduce practice time four hours per week during the playing season and replace that time with four hours of academic activities. Additionally, teams that did not demonstrate meaningful NCAA Division I Academic Progress Rate (APR) improvement in the most recent academic year must reduce practice activities to five days per week during the playing season. Finally, institutions/teams are required to report to the NCAA Division I Committee on Academic Performance how the penalties were imposed.

The following will assist institutions in ensuring the practice penalties are imposed correctly:

Q: Does the practice restriction apply during the entire academic year?

A: No, the practice restriction only applies during the period when the team is subject to the 20 hour per week limitation.

Q: Does the practice restriction apply only to the championship segment of the playing season?

A: No, it applies to the team's entire playing season including football spring practice and baseball fall nonchampionship segment.

Q: Do the hour or additional day off restrictions apply when there are no daily and weekly hour limits per the NCAA bylaws (e.g., vacation periods)?

A: No, the practice restriction only applies during the time period when the team is subject to the daily and weekly hour limits (e.g., 20 hours per week, required day off). Because the reduced practice time is to be supplemented with academic activities the restriction does not apply when no classes are in session.

Q: Do the hour and/or additional day off restrictions apply to practice and participation in conference and/or postseason championships?

A: The weekly hour restrictions and day off restriction does apply during a week in which a team is participating in conference and/or postseason championships. The exception to the one day off per week does not apply to the required day off per the team's historical penalty.

Q: In the sport of basketball, does the additional day off restriction apply when a team is participating in three contests a week?

A: The exception to the one day off per week does not apply to the team's historical penalty. Therefore, a basketball team subject to an additional day off as part of its Occasion-Two Historical Penalties must take that day off during a week in which the team participates in three contests.

Q: Do the weekly practice restrictions apply to a student-athlete who is also a member of another team at the institution that is not subject to an Occasion-Two Historical Penalty?

A: No, the practice restriction applies to the team's weekly practice limitations and does not apply to the individual student-athlete limitations for those student-athletes who are members of more than one team at the institution.

The following will assist institutions in ensuring that the policy of replacing practice time with academic activities is imposed correctly:

Q: What are acceptable academic activities?

A: The following activities are acceptable academic activities:

a. Study hall.

b. Tutoring.

c. Meeting with academic support personnel.

d. Meeting with departmental academic advisor.

e. Meeting with professor.

f. Meeting with formal study group.

g. Meeting with informal study group.

h. Faculty mentoring.

i. Peer mentoring.

j. Meeting with career counselor.

k. Career development seminar.

l. Life skills development session.

m. Campus seminars.

n. Supplemental instruction session.

o. Study skills seminars.

The following activities would **NOT** be considered acceptable academic activities:

a. Meeting with coaches in their offices to study.

b. Academic activity while traveling (e.g., on a bus, plane, at hotel).

c. Academic meetings with coaches.

d. Community service with athletic team/department.

e. Promotional activities.

f. Hosting recruits for official or unofficial visits.

g. Team meetings (not related to academics).

Q: Does the institution have to document the academic activities for student-athletes who are not in the APR cohort?

A: No.

Q: Do all student-athletes on the penalized team have to complete the same academic activity?

A: No, institutions can determine what academic activities are most appropriate for each student-athlete on the penalized team.

Q: Should the academic activities be related to the elements included in the team's/institution's APR Improvement Plan?

A: It is not necessary that the activities be specifically related to the issues identified within the APR Improvement Plan, however, this is encouraged.

Q: Can individual student-athletes be exempt from the academic activities if they are doing everything they can to meet the mission of the athletics department, university, and the NCAA (e.g., student-athletes meeting all progress-toward-degree requirements, institutional requirements)?

A: No. The intent of the penalty structure is for all student-athletes on a penalized team to engage in more academic activities and less athletics time.

Q: Who is responsible for monitoring the academic activity?

A: Each institution must designate the staff member(s) responsible for monitoring the activities.

The following outlines the reporting requirements for historical penalties:

Q: When does an institution have to report how the team applied the penalty?

A: All materials must be submitted to the NCAA national office by July 1 following the academic year in which the penalty was applied. For example, teams applying the penalty during the 2008-09 academic year must submit a report to the Committee on Academic Performance by July 1, 2009.

Q: What if a team does not impose all or part of the penalty?

A: The institution shall report a violation to the NCAA enforcement staff.

Q: What will an institution have to report regarding the academic activities the team participated in place of practice time?

A: The team will need to report a narrative to the NCAA national office by July 1 following the academic year in which the penalty was applied. The narrative must describe the academic activities the student-athletes on the team participated in to replace the reduced practice time.

[References: Bylaws: 17.1.1 (playing season), 17.1.6.3.6 (vacation periods and between terms), 17.1.6.3.8 (multisport participant); 17.1.6.4 (required day-off – playing season), 17.1.6.4.7 (exceptions – basketball), 17.1.7 (general regulations for computing playing seasons applicable to all sports), 23.2.1 (penalties), 23.2.1.2.2 (financial aid, playing and practice seasons and recruiting limitations)]

ATTACHMENT E

NCAA Division I Committee on Academic Performance
Academic Performance Program Penalty Waiver Directive

1. Background.

The central purpose of the NCAA Division I Academic Performance Program (APP) is to ensure that the NCAA Division I membership is dedicated to providing student-athletes with an exemplary education and intercollegiate athletics experience in an environment that recognizes and supports the primacy of the academic mission of its member institutions while enhancing the ability of student-athletes to earn a degree.

When a team's academic performance, measured by the NCAA Division I Academic Progress Rate (APR), falls below 925, that team becomes subject to penalties if any student-athlete on that team is not retained and does not earn academic eligibility. This penalty, known as a "contemporaneous penalty," is a financial aid restriction that is meant to be a catalyst for change for teams that are underperforming academically. Contemporaneous penalties provide immediate support to the behavioral shift that will be necessary to assist student-athletes in meeting progress-toward-degree requirements leading to graduation.

When a team's academic performance, as measured by its APR, falls below 900 and the team fails to demonstrate APR improvement and a favorable review of the established by sport or institutional academic or resource characteristics comparisons, it becomes subject to historical penalties. Historical penalties are progressive and cumulative penalties intended to penalize teams that have a demonstrated history of academic underachievement.

Waivers for both contemporaneous and historical penalties are provided for in NCAA Bylaws 15.5.7.3, 23.2.1.2.1.1 and 23.2.1.2.2.1, 23.2.1.2.3.2 and 23.2.1.2.4.1. The NCAA Division I Committee on Academic Performance has approved this directive to provide guidance to the NCAA staff and the NCAA Division I Committee on Academic Performance Subcommittee on Appeals in reviewing APP penalty waiver requests.

2. Guiding Principles.

a. Waiver requests of APP penalties will be considered based on the academic performance of the entire athletics team. The APR is a team rate and not based on the academic performance of a single student-athlete. One of the intents of the APP is to be a catalyst for change for teams that historically underachieve academically. By focusing on the team's historical academic trends, institutions must demonstrate that the performance of the team is achieving the stated goals of the APP (e.g., graduating student-athletes).

Therefore, the review of waiver requests shall consider all student-athletes included in the team's multiyear APR, including all who failed to earn points in the applicable academic years. This approach considers the loss of all APR points, not just those of select students. This approach could be referred as the "top-down approach" (e.g., start at an APR of 1000 and explain the loss of all points). Annual and historic academic data will be primary points of analysis in the review of appeals of APP penalties.

b. Waiver decisions will consider whether the team's academic deficiency is an anomaly or a pattern of behavior as demonstrated by current and historical data. Waiver decisions will analyze those circumstances that may be unique events resulting in academically low performing year(s) versus habitually underperforming teams. A team's APR that is negatively affected by a unique one time circumstance, but otherwise is not historically an underperforming team, should be treated differently than a team that has a history and pattern of academic underachievement.

c. Institutions seeking a waiver of APP penalties must present evidence of compelling mitigating circumstances along with a reasonable expectation that the team's academic performance will improve and the team will achieve an APR of 925 or higher in a reasonable period of time. APR Improvement Plans assist teams in achieving the established APR penalty benchmarks in a reasonable time by identifying the issues impacting a team's APR, establishing measurable goals , steps to achieve the stated goals and establishing a timetable for implementation.

3. Squad-Size Adjustment.

The APR is a four-year rolling rate. The main goal of the four-year rate is to provide the best estimate of the average behavior by smoothing out any odd fluctuations that might emerge due to unusual circumstances in any specific year, and/or small samples. Teams that have not yet submitted four years of data or teams with a four-year APR cohort of less than 30 student-athletes will be evaluated based on the upper-confidence boundary of the team's multiyear APR. The squad-size adjustment considers the number of student-athletes in the APR calculation, thus accounting for possible fluctuation in the short term due to squad size. There is no change to the team's APR or to the penalty benchmarks. Rather, consideration is given to squad size to help ensure low performing teams are appropriately identified.

Therefore, the staff/subcommittee will generally not consider the size of the APR cohort in its review of APP penalty waiver requests as the squad size has already been factored into the determination of the penalty.

4. Use of Conditional Approvals.

APP penalty waivers may receive "conditional" approval. A waiver that is conditionally approved does not "forgive" the team's penalty unless the team satisfies the stated condition(s). These conditions may include, but are not limited to, compliance with the institution's written APR Improvement Plan, attendance at mandatory educational sessions, and/or, meeting or maintaining a specified APR.

An institution/team that fails to meet the stated condition(s) by the given timeframe shall result in the waiver decision converting to a denial and the APP penalty being applied to the team. The institution must impose the applicable penalty within the prescribed period of time.

Sequencing of Historical Penalties. If the team is subject to a historical penalty, the team is then potentially subject to the occasion of penalty that was conditionally waived and the next occasion historical penalty if it again fails to meet the historical-penalty benchmarks within the next three years.

5. Length of Time to Cite Mitigation.

Institutions are limited to submitting information concerning mitigating circumstances only for the academic years used to calculate that team's APR. However, the staff and subcommittee reserve the right to consider any relevant information that would explain the team's historical performance.

6. Academic Factors Considered for Teams.

Evaluating the team's academic performance is an important part of the waiver process. The staff/subcommittee considers the totality of circumstances surrounding a waiver. Review of a team's academic performance may include consideration of the following elements:

a. The team's Graduation Success Rate (GSR) and Federal Graduation Rate, if available.

b. Eligibility. The team's eligibility and percentile rank will be compared against the following:

(1) All other NCAA Division I teams.

(2) All other Division I teams in the same sport.

(3) The institution's teams.

c. Retention. The team's retention and percentile rank will be compared against the following:

(1) All other Division I teams.

(2) All other Division I teams in the same sport.

(3) The institution's teams.

d. APR. The team's APR and percentile rank will be compared against the following:

(1) All other Division I teams.

(2) All other Division I teams in the same sport.

(3) The institution's teams.

e. The team's APR for the most recent year will be reviewed to determine if this rate demonstrates improvement over previous year's APR.

f. The mitigating circumstances for any previous contemporaneous-and/or historical-penalty waiver requests.

g. History of contemporaneous and/or historical penalties.

h. The team's academic profile including hours earned, grade-point average, eligibility and retention points.

i. Academic profile of the team when admitted to the member institution, including admissions status as compared to the general student-body and/or other student-athletes at the institution.

j. Size of variance between the team's APR and the applicable APP penalty benchmark (e.g., 925 or 900).

k. The team's single-year APRs that comprise the multiyear rate. Specifically, the number of single-year APRs above or below the penalty benchmarks (e.g., 900, 925).

l. The number of student-athletes who were not academically eligible and not retained.

m. Other data elements that may be relevant to the case.

n. Mitigating factors that affect the team's APR. [See Section 8.]

7. Academic Factors Considered for Individual Student-Athletes: Nonretained Ineligible Student-Athletes for Contemporaneous Penalties.

The review of contemporaneous-penalty waiver requests will emphasize the team's academic performance; however, the staff/subcommittee also may review the individual performance of student-athletes who were not academically eligible and not retained ("0-for-2" in the data set) and whose countable aid was calculated in determining the penalty when considering a waiver of contemporaneous penalties. Review of the individual student-athlete's academic performance may include consideration of the following elements:

a. Mitigating circumstances that led to the student-athlete being not academically eligible and/or not retained.

b. Academic profile of student-athlete when admitted to the member institution, including admissions status as compared to the general student body and/or other student-athletes at the institution;

c. Academic record (e.g., credits completed, grade-point-average);

d. Record of APR points earned and/or lost;

e. Prior academic waivers (initial-eligibility and progress-toward-degree waivers);

f. Academic progress in term of departure; and

g. Other factors deemed relevant by the staff or subcommittee.

8. Mitigating Circumstances to be Considered.

After reviewing the academic profile of the team, the staff/subcommittee may consider the circumstances provided by the institution to explain a team's APR or a "0/2" student-athlete. Circumstances will be considered as compelling mitigating factors if the

institution can demonstrate that it had a direct correlation to the team's ability to earn eligibility/graduation and/or retention points and it must be supported by objective documentation. Mitigating circumstances for a "0/2" student-athlete will be reviewed in accordance with Section 7 of this document.

For institutions that assert institutional characteristics and/or resources as a mitigating factor, please refer to Section 9 for additional information.

Circumstances not considered as compelling mitigating circumstances may include, but are not limited to, the following:

a. Unreasonable reliance by a student-athlete on misinformation from an institutional staff member (e.g., misadvisement);

b. Institutional lack of understanding regarding the APP; or

c. Failure to develop and implement an APR Improvement Plan.

d. Conferences and/or institutions with more stringent academic standards than NCAA Division I Progress-Toward-Degree requirements.

Some circumstances may have been submitted in a request to receive an adjustment of an individual student-athlete's APR retention and/or eligibility or graduation point. If the institution received relief for those circumstances by way of an APR adjustment, the same circumstance may not be considered in the review of the APP penalty waiver for that student-athlete.

9. Institutional Characteristics.

The staff/subcommittee may consider comparisons of institutional characteristics as a mitigating circumstance when reviewing a waiver of APP penalties. Institutional characteristics will include two dimensions of review: (a) team academic performance compared to the general student body academic performance as determined by actual and projected Federal Graduation Rates and; (b) comparison of institutional, athletics and student resource levels.

a. Institutions that assert institutional characteristics as a mitigating factor must demonstrate the following for the penalized team(s):

(1) It graduates both the team's student-athletes and members of the general student-body at a higher rate than the student-body at other schools with similar institutional characteristics; or

(2) It graduates the team's student-athletes at a rate at or above the general student-body at their institution.

The staff/subcommittee shall review the following when considering an institution's characteristics in a waiver of historical penalties:

(1) Review the size of the variance between a team's expected Federal Graduation Rate based on its multiyear APR (Attachment A) and the institution's student-body Federal Graduation Rate.

(2) Compare differences between the team's expected Federal Graduation Rate based on the multiyear APR and the institution's student-body projected Federal Graduation Rate as determined by characteristics of the applicant institution. Comparing a team's performance to an institution's projected (rather than actual) Federal Graduation Rate takes into account the possibility that an institution may be outperforming institutions with similar characteristics in a manner not assessed by the review outlined in letter (a) above. The NCAA research staff will provide the staff/subcommittee the following information with each waiver filed that indicates an institution's characteristics as a mitigating factor:

(a) The team's expected Federal Graduation Rate, based on the team's multiyear APR (Attachment A);

(b) The most recent four-year student-body Federal Graduation Rate for that institution; and

(c) The institution's projected Federal Graduation Rate based on various characteristics of the institution. This rate will be determined by a series of statistical models that will include a list of variables from the following categories that have shown to be the most predictive of an institution's Federal Graduation Rate:

(i) Who is served by the institution (for example: average age of student body, percent of students residing on campus, per capita Pell Grant dollars)?

(ii) What is the academic experience at the institution (for example: admissions selectivity, academic entrance requirements and academic characteristics of student body)?

(iii) What are the available educational resources for the institution and its students (for example: per capita education expenditures, tuition, student faculty ratio, research dollars)?

Based on information supplied by the institution, the list of variables employed by the staff/subcommittee can be changed to match the variables the institution believes best defines its institutional characteristics.

(d) Review of the narrative information supplied by the institution describing how the characteristics of the institution affects the student body and why its team's academic performance represents superior academic performance given the institution's characteristics.

(e) Review the portions of the institution's most recent academic accreditation report that detail the information submitted.

b. The staff/subcommittee shall review the following when considering an institution's resources as a mitigating factor for a waiver of historical penalties:

(1) Per capita educational expenses;

(2) Per capita athletics department operating expenditures; and

(3) Average Pell Grant among all students.

10. Automatic Waivers of Contemporaneous Penalties.

a. Institutional Characteristics. Teams with an expected Federal Graduation Rate based on its multiyear APR that is at least 10 percentage points higher than the institution's student-body Federal Graduation Rate, will receive an automatic waiver of contemporaneous penalties. [Attachment No. 1]

b. Institutional Resources. Institutions identified in the bottom 10 percent based on institutional resources will receive an automatic waiver of contemporaneous penalties.

11. Review of Historical-Penalty Determination Factors.

Teams that are subject to a historical penalty, but compare favorably in one of the factors: APR improvement, institutional characteristics, institutional resources or by-sport comparison will be generally reviewed as follows:

a. Team APR Improvement.

(1) A waiver for a team subject to an Occasion-One Historical Penalty that meets only improvement, **and has achieved single-year APRs that demonstrated the team is capable of achieving a multiyear APR above 925,** should generally be conditionally approved without significant review of the mitigating circumstances provided the team presents an APR Improvement Plan that demonstrates a reasonable expectation that the team will improve to a 925 APR. Team(s) that demonstrate improvement are fulfilling the goal of the APP and should be provided the opportunity to continue to improve without having to impose a historical penalty.

(2) Occasion-Two Historical Penalty. A team(s) subject to an Occasion-Two Historical Penalty that meets improvement will be reviewed in accordance with this directive and are expected to demonstrate that relief is warranted (e.g., mitigating circumstances). A team that has demonstrated improvement has had its practice season and financial aid penalties reduced because of its improvement. Any additional relief must be warranted by the particular circumstances provided in the waiver request.

b. By-Sport Comparison. A team(s) that compares favorably in the by-sport comparison (Attachment No 2) but fails to meet the improvement factor will be reviewed in accordance with this directive and are expected to demonstrate that relief is warranted (e.g., mitigating circumstances).

c. Institutional Characteristics. A team(s) that demonstrates that the team(s) is out performing its general student-body (Attachment No. 1) but fails to meet the improvement factor will generally be reviewed based on the following: level of APR improvement, level of institutional resources as defined in Section 9, the institution's APR Improvement Plan and any other relevant factor(s).

d. Institutional Resources. A that lacks sufficient financial resources to quickly and reasonably engage in academic enhancements, generally viewed as institutions in the lowest 10 percent based on the variables listed in Section 9, but fails to meet the improvement factor will generally be reviewed based on the following: level of APR improvement, the team's academic performance compared to the institution's student-body (See Section 9), the institution's APR Improvement Plan and any other relevant factor(s).

~~**12. Contemporaneous Penalty Tiered System of Review**~~

~~The staff/subcommittee shall consider contemporaneous penalty waiver requests using a "tiered" approach. The goal of this approach is to encourage improved academic performance of teams. Generally, low performing teams seeking waivers of contemporaneous penalties are expected to improve the team's multiyear APR above 925 in a reasonable period of time.~~

~~Tier No. 1 (APR below 925 to 900): Appeals of contemporaneous penalties in this range are generally conditionally approved without significant review of the mitigating circumstances. A team in this range is expected to improve its APR with the goal of achieving a 925 multiyear APR within a reasonable period of time.~~

~~Tier No. 2 (APR below 900): Waivers of contemporaneous penalties are only granted when the institution presents evidence of compelling mitigating circumstances and demonstrates that the team will achieve a multiyear APR of 925 within a reasonable period of time.~~

12. APR Improvement Plans.

APR Improvement Plans are meant to encourage institutions that have a team with an APR below 925 to implement strategies ~~make immediate improvement in~~ to improve the academic performance, retention and graduation of the student-athletes on the team. Institutions seeking relief from an APP penalty are expected to demonstrate that the team's academic performance will improve and will achieve an APR of 925 in a reasonable period of time. Therefore, APR Improvement Plans will be reviewed as follows:

a. Institutions requesting an APP penalty waiver for a team that was previously required to complete an APR Improvement Plan as a result of a multiyear APR below 925 must re-evaluate their current APR Improvement Plan. Institutions/teams will be accountable for identifying issues and making progress toward implementing the APR Improvement Plan. Within the waiver request the following shall be addressed:

(1) Identify all steps the institution has taken toward ~~completion~~ implementation of the previous APR Improvement Plan and progress toward ~~ultimate completion of~~ the measurable goals.

~~(2) Identify challenges, issues or problems that were identified in the previous plan that continue to confront the team(s) in its pursuit of improved academic achievement.~~

(3) Identify any new issues impacting the academic performance, retention and graduation of the team's student-athletes and develop specific and measurable goals to address the issues, steps to meet the goals, timetable for implementation and persons responsible for each step outlined in the plan.

(4) Identify specific target APR goals for the team(s) for the current academic year that will assist the team in meeting the 925 benchmark in a reasonable period of time.

b. Institutions requesting an APP penalty waiver for a team that does not have an APR Improvement Plan will be required to develop an APR Improvement Plan. If an institution was required to develop an APR improvement for a team, but failed to develop a plan or implement the plan it developed, the staff/subcommittee will consider this in evaluating whether the team can be expected to improve its academic performance and achieve an APR of 925 within a reasonable period of time. Institutions shall address the following for each waiver request:

(1) Identify issues impacting the academic performance, retention and graduation of the student-athletes on each team subject to APP penalties.

(2) Identify specific and measurable goals to address the issues, steps to meet the goals, timetables for implementation and persons responsible for each step.

(3) Identify specific APR target goals for the team(s) for the current academic year that will assist the team in meeting the 925 benchmark in a reasonable period of time.

Delays of Occasion-Two Historical Penalties

Occasion-Two Historical Penalties are intended to be serious and significant and delaying their application is contrary to this intent. Therefore, in the vast majority of cases, the staff and/or

subcommittee will not approve any delay in the application of these penalties. In rare cases where an institution can demonstrate that due to unanticipated and extraordinary circumstances outside the control of the institution, team and involved student-athlete(s) it is unable to apply Occasion-Two Historical Penalties within the prescribed period a delay may be conditionally approved.

Delays of Contemporaneous Penalties

1. Standard for Review.

A request to delay having to impose an APP financial aid penalty will only be considered when an institution or team can demonstrate that by imposing the penalty within the prescribed period (the year immediately following the ineligible student-athlete's departure or not later than the following year) would take away financial aid from a current student-athlete or prospective student-athlete. The team must provide the following:

a. A current team squad list with counters designated and/or equivalency amounts listed for each student-athlete;

b. Identification of the current student-athletes with remaining eligibility whose countable financial aid is expected to be renewed for the next academic year; and

c. The countable financial aid equivalencies for prospective student-athletes who signed a valid National Letter of Intent (NLI) and/or financial aid agreement prior to the institution receiving notice of its APP financial aid penalties.

2. Guiding Principles.

a. APP penalties are meant to be a team penalty and not for an individual student-athlete. If an institution must take away financial aid from a current or prospective student-athlete who has signed a valid NLI and/or financial aid agreement prior to the institution receiving notification of its APP penalty in order for the team to impose the APP financial aid penalty, a delay would be warranted.

b. Any request to delay imposing an APP financial aid penalty will be considered on the premise that any current student-athlete receiving countable financial aid will be renewed at the same equivalency as the current academic year.

c. If the request to delay the APP financial aid penalty is approved, a delay will generally only be extended one academic year so that the APP financial aid

penalty will be imposed at the latest within three years of the ineligible student-athlete's departure.

3. <u>Use of Conditional Approvals</u>.

Approvals will generally be based on the following conditions:

a. All currently enrolled student-athletes who will not exhaust eligibility during the current academic year will return to the team in the subsequent academic year and receive the countable financial aid at the same equivalency as the current year.

b. All prospective student-athletes who have signed a valid NLI and/or financial aid agreement will enroll at the institution the next academic year and are eligible for institutional financial aid based on athletics ability.

c. If any current student-athlete departs the institution prior to the next academic year or if any prospective student-athlete does not enroll or is not eligible for institutional financial aid based on athletics ability (i.e., is a nonqualifier), the team must impose part or all of the APP financial aid penalty based on the equivalency amount and/or the number of counters that become available.

d. The team may not re-award the financial aid of any student-athlete who departed the institution and/or prospective student-athlete who did not enroll and/or qualify for the institutional financial aid based on athletics ability, unless it is imposing the entire penalty within the original prescribed period of time.

Expected Federal Graduation Rate based on
NCAA Division I Academic Progress Rate

The table below provides a team's expected Federal Graduation Rate based on its multiyear NCAA Division I Academic Progress Rate (APR). This rate is then compared to the institution's most recent student-body Federal Graduation Rate to determine whether a team would receive a waiver of contemporaneous- and/or historical penalties based on institutional characteristics.

TO BE DETERMINED

[Note: This table was created by comparing APRs to historical-squad Federal Graduation Rates for N=5,455 squads with both rates available (using equipercentile method). This table should be considered a fairly rough guide only (especially at the tails of the distribution) until contemporary graduation rates are available for squads in the APR cohort. Note that this table will continue to change as the APR formula changes and as we move toward a four-year data collection.]

Minimum NCAA Division I Academic Progress Rate to be above the Tenth Percentile by Sport

The table below provides the minimum multiyear NCAA Division I Academic Progress Rate (APR) required for a team to meet the by-sport comparison factor within the historical-penalty structure. A team with an APR at or above the APR listed for the specific sport would meet the by-sport comparison factor, but must also meet the improvement factor in order to avoid historical penalties in the 2008-09 academic year.

Baseball	890
Men's Basketball	874
Men's Cross Country	920
Football	897
Men's Fencing	930
Men's Golf	918
Men's Gymnastics	946
Men's Ice Hockey	945
Men's Lacrosse	933
Men's Skiing	928
Men's Soccer	918
Men's Swimming	936
Men's Tennis	926
Men's Track, Indoor	910
Men's Track, Outdoor	910
Men's Volleyball	921
Men's Water Polo	923
Men's Wrestling	901
Women's Basketball	926
Women's Bowling	898
Women's Cross Country	936
Women's Rowing	967
Women's Fencing	910
Field Hockey	964
Women's Golf	947
Women's Gymnastics	960
Women's Ice Hockey	948
Women's Lacrosse	965
Women's Softball	934
Women's Skiing	935
Women's Soccer	946
Women's Swimming	958
Women's Tennis	941
Women's Track, Indoor	932
Women's Track, Outdoor	930
Women's Volleyball	938
Women's Water Polo	942
Mixed Rifle	914

Including Student-Athletes Receiving Athletics Aid Contingent on Academic Performance in the NCAA Division I Academic Performance Program Cohort

Background.

In April, the NCAA Division I Committee on Academic Performance Subcommittee on Data Collection and Reporting considered a request from a member institution to determine if a student-athlete who was offered and accepted athletically related financial aid contingent on the student-athlete satisfying various academic criteria before receiving any athletics aid should be included in the NCAA Division I Academic Performance Program (APP) cohort for purposes of calculating the NCAA Division I Academic Progress Rate (APR). The subcommittee determined that a student-athlete signed to athletically related financial aid in this manner who is enrolled full time as of the institution's census date or the fifth week of classes, whichever is earlier, should be included in the APP cohort regardless if the student-athlete eventually meets the contingency within the financial aid agreement and is awarded the athletics aid. The subcommittee considered changing the definition of the APP cohort for purposes of calculating the APR to address this scenario, but ultimately elected to issue an interpretation to clarify this issue. The NCAA Division I Committee on Academic Performance was supportive of this solution.

Interpretation.

The committee determined that when an institution offers and signs a student-athlete to athletically related financial aid contingent on the student-athlete subsequently satisfying some nonathletics criteria prior to receiving any athletics aid, that student-athlete shall be included in the APP cohort for that term, whether the stated criteria are met or not. Provided the student-athlete meets all other criteria to be included in the APP cohort. The committee noted that offering athletics aid with a contingency is indicative of the institution's intention to provide the student-athlete with athletically related financial aid. Therefore, the institution should include the student-athlete in the APP cohort, based on the current definition of the cohort for institutions that offer athletically related financial aid (student-athletes who received institutional financial aid based in any degree on athletics ability and who are enrolled full time as of the institution's fifth week of class or official census date).

A G E N D A

National Collegiate Athletic Association
Division I Leadership Council

Indianapolis Marriott — August 6, 2008
Indianapolis, Indiana — 8 a.m. to 2 p.m.

1. Welcome and introductions.

2. Understanding the new Division I governance structure. [Supplement No. 1]

3. Discussion with NCAA President Myles Brand. Review of three-to-five year national office strategies. [Supplement No. 2]

4. Discussion regarding the role and purpose of the Leadership Council (i.e., support the Division I Board of Directors and help to identify and manage the agenda for Division I.) [Supplement No. 3]

   a. Flow of Council's work.

   b. Structure and timing of meetings.

   c. Administrative Committee.

   d. Vice chair.

   e. Other issues.

5. Review the function of the Coordination and Communications Committee. [Supplement No. 4]

6. Review agenda items identified by the Division I governance structure, including the Division I Board of Directors, for consideration and discussion by the Leadership Council.

   a. Recommend initiatives that will enhance the level of diversity in the Division I governance structure. [Supplement No. 5]

b. Study and offer recommendations concerning Division I membership standards. What does it mean to be a member of Division I?

c. Following review by the Board of Directors, offer recommendations concerning the report of the Task Force on Commercial Activity in Intercollegiate Athletics.

d. Discuss appropriate strategies to consider certain Division I amateurism issues. [Supplement No. 6]

7. Identification of additional issues and themes of importance to the Leadership Council.

8. News from the National Office.

a. Review of significant agenda items from August 7, 2008, Division I Board of Directors meeting. [Supplement No. 7]

b. Status report on the work of the Men's Basketball Academic Enhancement Working Group. [Supplement No. 8]

c. Update regarding the membership's override request with regard to Proposal No. 2007-30-C. [Supplement No. 9]

9. Discussion of appropriate process to evaluate reports from committees that report to the Leadership Council.

a. Committee on Women's Athletics. [Supplement No. 10 will be distributed at the meeting.]

b. Minority Opportunities and Interests Committee. [Supplement No. 11]

c. Sportsmanship and Ethical Conduct. [Supplement No. 12]

d. Division I Student-Athlete Advisory Committee. [Supplement No. 13 will be distributed at the meeting.]

10. Other business and issues for discussion.

11. Adjournment.

Proposal No. 2007-30-C – Recruiting -- Contacts and Evaluations -- Men's Basketball Evaluations -- April Contact Period.

Status: Adopted - Final

Intent: To specify that evaluations of live athletics activities during the April contact period shall be limited to regularly scheduled high school, preparatory school and two-year college contests/tournaments and practices; and regular scholastic activities involving prospective student-athletes enrolled only at the institution at which the regular scholastic activities occur; further, to amend the April contact period to begin at noon on the first Thursday following the Men's Basketball Championship and continue through seven days following the initial date for the spring signing of the National Letter of Intent.

A. Bylaws: Amend 13.1.8.8, as follows:

13.1.8.8 Basketball Evaluations.

(a) Men's Basketball. In men's basketball, each institution is limited to 130 recruiting-person days (see Bylaw 13.02.7) during recruiting periods (contact and evaluation periods) that occur during the academic year.

(1) Fall Contact Period. Evaluations at sites other than a prospective student-athlete's educational institution are prohibited during the fall contact period. Evaluations of live athletics activities shall be limited to regularly scheduled high school, preparatory school and two-year college contests/tournaments and practices; and regular scholastic activities involving prospective student-athletes enrolled only at the institution at which the regular scholastic activities occur.

(2) Academic Year Evaluation Period. Evaluations of live athletics activities during the academic year evaluation period shall be limited to regularly scheduled high school, preparatory school and two-year college contests/tournaments and practices; and regular scholastic activities involving prospective student-athletes enrolled only at the institution at which the regular scholastic activities occur.

(3) March **and April** Contact Period**s**. Evaluations of live athletics activities during the March **and April** contact period**s** shall be limited to regularly scheduled high school, preparatory school and two-year college contests/tournaments and practices; and regular scholastic activities involving prospective student-athletes enrolled only at the institution at which the regular scholastic activities occur. Evaluations at nonscholastic events are prohibited during *this* **these** period**s**.

(4) April Contact Period.

(i) Evaluations at Nonscholastic Events. Evaluations at nonscholastic events during the April contact period are limited to events that are approved, sanctioned, sponsored or conducted by the applicable state high school, preparatory school or two-year college association, National Federation of High School Associations or the National Junior College Athletic Association.

Coaching staff members may only attend such an event on Saturday and/or Sunday, and not on any weekend during which the PSAT, SAT, PLAN or ACT national standardized tests are administered, regardless of where the event occurs. If an approved nonscholastic event occurs at a high school, preparatory school or two-year college, it is not necessary to have a contact with a prospective student-athlete who attends the educational institution.

(ii) Evaluations at a Prospective Student-Athlete's Educational Institution (Other Than Nonscholastic Events). Evaluations of live athletics activities at a prospective student-athlete's educational institution shall be limited to regularly scheduled preparatory school or two-year college contests/tournaments and practices; and regular scholastic activities involving prospective student-athletes enrolled only at the institution at which the regular scholastic activities occur, and only in conjunction with an off-campus contact.

[13.1.8.8-(a)-(5) through 13.1.8.8-(a)-(6) renumbered as 13.1.8.8-(a)-(4) through 13.1.8.8-(a)-(5), unchanged.]

B. Administrative: Amend 30.10.1, as follows:

30.10.1 Basketball, Men's. The following recruiting periods shall apply to men's basketball:

[30.10.1-(a) through 30.10.1-(d) unchanged.]

(e) April 1 through the Wednesday immediately prior to the NCAA Division I Men's Basketball Championship game:	**Quiet Period**
(f) The Thursday immediately prior to the NCAA Division I Men's Basketball Championship game to noon on the Thursday immediately after the game:	**Dead Period**
(*e***g**) *The month of April* **Noon on the Thursday immediately after the NCAA Division I Men's Basketball Championship game through seven days following the initial date for the spring signing of the National Letter of Intent** [except for (1) *and (2)* below]:	Contact Period
(1) Thursday prior to the NCAA Division I Men's Basketball Championship game to Thursday noon after the game:	*Dead Period*
(*2***1**) Monday through Thursday of the week that includes the initial date for the spring signing of the National Letter of Intent:	Dead Period
(*f***h**) *May 1* **The eighth day after the initial date for the spring signing of the National Letter of Intent** through July 5 [except for (1) below]:	Quiet Period

[30.10.1-(g) through 30.10.1-(l) relettered as 30.10.1-(i) through 30.10.1-(n), unchanged.]

Source: NCAA Division I Championships/Competition Cabinet (Men's Basketball Issues Committee).

Effective Date: August 1, 2008
Proposal Category: Amendment
Topical Area: Recruiting

Rationale: Concern has been expressed about the proliferation of nonscholastic events conducted during the April contact period and the resulting consequences to the well being of the prospective student-athletes who travel all over the country to participate in such events. Historically, the April contact period was increased in an effort to accommodate a change in the legislation to permit off-campus, in-person contacts with junior prospective student-athletes. The legislation to permit contacts with junior prospective student-athletes has been rescinded and the scholastic organizations have not provided necessary leadership with regard to the oversight of the nonscholastic events. The committee has been monitoring the merits of the April contact period for quite some time. Accordingly, this recommendation is intended to address concerns about the significant amount of class time missed by prospective student-athletes during key academic time periods in order to accommodate travel to and from events, the disruption to the relationship between NCAA Division I basketball coaches and their own student-athletes during a critical academic time period and the increasing role of outside influences during the April contact period. The proposed modification of the length of the contact period is designed to reinstate the previous contact period that existed prior to the change in legislation that permitted contacts with junior prospective student-athletes.

Estimated Budget Impact: Potential reduction in recruiting costs.
Impact on Student Athlete's Time: None.

Position Statement(s)
Academics/Eligibility/Compliance Cabinet: The cabinet agrees with the sponsor's rationale statement and notes the support of the NCAA Division I Men's Basketball Issues Committee for this proposal. The cabinet prefers Proposal No. 2007-30-C over Proposal No. 2007-30-B.

Primary Contact Person:
na

WHAT TO EXPECT WITH REGARD TO THE STATUS OF PROPOSAL NO. 2007-30-C.

1. Override Requests on Proposal No. 2007-30-C.

Division I member institutions have submitted 62 requests to override the Board of Directors action in adopting Proposal No. 2007-30-C. This proposal specifies that evaluations of live athletics activities during the April contact period shall be limited to regularly scheduled high school, preparatory school and two-year college contests/tournaments and practices and regular scholastic activities involving prospective student-athletes enrolled only at the institution at which the regular scholastic activities occur. Further, this proposal amends the April contact period to begin at noon on the first Thursday following the Men's Basketball Championship and continue through seven days following the initial date for the spring signing of the National Letter of Intent.

2. What do these override requests mean?

Pursuant to NCAA Bylaw 5.3.2.3.1, upon receipt of at least 30 override requests, the Board of Directors will review its earlier legislative decisions.

3. August Division I Board of Directors Meeting.

NCAA Bylaw 5.3.2.3.2 provides that once the required number of override requests have been received (i.e., 30), the Board of Directors will review its earlier legislative decision.

Accordingly, Proposal No. 2007-30-C has been placed on the agenda for the Board of Directors review at its August 7, 2008, meeting.

4. Possible Outcomes for the August Division I Board of Directors Meeting.

At its August meeting, the Board may:

a. Accept the override request by changing its original action by defeating Proposal No. 2007- 30-C. If the Board would accept any of the membership's requests for override, the new action(s) by the Board would be subject to another 60 day override period.

b. Uphold its earlier decision to adopt Proposal No. 2007-30-C. If the Board upholds its earlier action in adopting the proposal, a vote of active Division I members would take place in a business session at the 2009 NCAA Convention.

c. **Develop an alternative approach.** While it is not likely given the nature of the proposal being reviewed, it is possible the Board could identify an alternative approach to that set forth in Proposal No. 2007-30-C. Any alternative approach adopted by the Board would result in the new proposal entering into another override period.

5. <u>2009 NCAA Convention</u>.

If the Division I Board of Directors decides to uphold its earlier adoption of Proposal No. 2007-30-C the override request will have to be considered by the membership at the NCAA Convention.

If a Convention proceeding would be required as a result of the Board's actions, at least a five-eighths majority vote of individual active members present including conference members in the governance structure and voting shall be required to override the legislative action taken by the Board of Directors. The vote shall be based on the principle of one institution, one vote and the vote shall be taken by roll call.

An override of the Board's legislative action by vote of the membership shall be effective upon adjournment of the voting session in which the vote occurs.

Background Questions and Answers Concerning NCAA Proposal No. 2007-30-C

QUESTION: What is the intent of Proposal No. 2007-30-C?

ANSWER: Proposal No. 2007-30-C is intended to accomplish the following:

- Prohibit Division I men's basketball coaches from observing "nonscholastic" events during the April contact period;

- Continue to permit evaluations during the April contact period during regularly scheduled high school, preparatory school or two-year college contests/tournaments and practices, and regular scholastic activities involving prospective men's basketball student-athletes enrolled only at the institution at which the regular scholastic activities occur; and

- Reduce the April in-person contact period, which now is the entire month by approximately seven to ten days).

QUESTION: What entity in the governance structure sponsored Proposal No. 2007-30-C and what is the proposal's rationale?

ANSWER: Proposal No. 2007-30-C was sponsored by the NCAA Division I Championships/Competition Cabinet, on the recommendation of the NCAA Division I Men's Basketball Issues Committee. The committee addressed two concerns as it relates to the environment in men's basketball, one being the increase in nonscholastic influences in the sport, and the other being the poor academic preparation and performance of prospective and enrolled men's basketball student-athletes. There has been great concern expressed regarding the proliferation of nonscholastic events during April and the resulting consequences to well-being of the junior high and senior high students who travel the country during this time period to participate in such events.

The nonscholastic events in April are not regulated. Thus, there are no limitations on the number of games in which prospects participate during a given day or the hour of day in which activities begin or conclude. Participating prospects are missing significant class time as a result of travel to and from the April events and may not be focusing on academic commitments during a key period of the academic year. Many Division I men's basketball coaches also have voiced concern regarding the escalating prices charged by event operators for required event information/ materials that must be purchased in order to attend the event.

The committee was well aware that there would be coaches who would not support the proposal. "Mid-major" programs will have fewer opportunities to observe some potential senior prospects in April. The elite programs for the most part have used the April period only to further observe and seek early commitments from underclassmen, including youth enrolled in the eighth and ninth grades. The Basketball Issues Committee recognized that it often is difficult to develop a

consensus in the men's basketball community to address this issue as the diversity of Division I basketball programs does not lend itself to a "one size fits all" approach, but ultimately it believed that the proposal addressed some important concerns and was in the best interest of the sport, its participants and our coaches.

QUESTION: Have there been previous concerns expressed by the Board regarding the increased nonscholastic influences in the sport of men's basketball?

ANSWER: Yes. As long as ten years ago, the Board of Directors created a working group to study issues affecting Division I men's basketball, including the lack of emphasis on the academic values in the recruiting process and the apparent scandals in summer basketball recruiting. One of the Board's primary concerns related to the recruiting process and the involvement of nonscholastic coaches, apparel and equipment companies, and others outside the education community who influence prospects. The Board at that time considered "walking away" from the summer environment and limiting observation of men's basketball prospects to scholastic events conducted during the academic year. Since then, several groups, including the Division I Men's Basketball Issues Committee, The National Association of Basketball Coaches [NABC] and Special Committee on Recruiting and Access have attempted to address some of the concerns regarding the increased outside nonscholastic influences in the sport. Currently, the NCAA and National Basketball Association (NBA) have agreed to form a partnership which in part is designed to effectuate change in the current men's youth basketball environment.

QUESTION: Why have NCAA rules caused the significant increase in nonscholastic events during the April contact period?

ANSWER: The April contact period was increased several years ago to accommodate legislation that permitted coaches to make contacts with men's basketball prospective student-athletes enrolled in their junior year of high school (legislation that has since been rescinded). Concurrently, the Division I membership eliminated the opportunity for coaches to observe nonscholastic events during the fall contact period. The result has been a significant increase in the number of nonscholastic events in April. The events have increased tenfold from approximately five or six events a few years ago to approximately 50 or 60 today.

QUESTION: Will eliminating a coach's ability to observe nonscholastic events in April further the objective of Proposal No. 2007-30-C? Will these events still continue to exist and will the prospective men's basketball student-athletes continue to participate in the events?

ANSWER: Anecdotal evidence would suggest that if the Division I coaches are not able to attend nonscholastic events some will no longer continue. To quote a member of the Division I Men's Basketball Issues Committee, "We are sending the wrong message to our youth by allowing coaches to observe nonscholastic events during the academic year in April. We are sanctioning this whole process and suggesting that their academic commitment is not the

priority. Even if some of these events continue, the message should be clear that academic commitments take precedence during this time period."

QUESTION: What governance entities supported Proposal No. 2007-30-C, and has new information or unintended consequences surfaced since the Board's approval of the proposal?

ANSWER: The proposal was initially sponsored by the Championships/Competition Cabinet at its June 2007 meeting, on the recommendation of the Men's Basketball Issues Committee. The NABC surveyed its coaching membership and the proposal was supported by 61 percent of the respondents. The Management Council, at its January 2008 meeting, voted to send the proposal out to the membership for further comment. At its April meeting, the Management Council approved the proposal with a 70 percent approval rate and forwarded it to the Board for final approval. The Board unanimously approved the proposal at its April meeting. Since the approval of the proposal by the Board, there have been no unintended consequences that were neither known nor considered by the groups during the legislative cycle.

QUESTION: Did the Men's Basketball Issues Committee consider alternative proposals that would continue to permit Division I men's basketball coaches to observe nonscholastic events during the April contact period?

ANSWER: Yes. The committee considered several options before it agreed to forward Proposal No. 2007-30-C for consideration by the governance structure. It considered an option to maintain the status quo, but require that nonscholastic events be certified similar to those conducted during the summer. It also considered limiting observation of nonscholastic events to one weekend in April, including an alternative to reduce the summer evaluation period from 20 to 14 days. The committee believes that reducing the time period for observations of nonscholastic events to one weekend in April could worsen the conditions for both the participants and the coaches. Participants likely would continue to focus on the events to the detriment of their academic commitments and may well attempt to attend several events over the one weekend. Event operators would likely increase the number of games participants are playing and participants would be forced to play at all hours of the day. In the end, the committee felt these alternatives would not minimize nonscholastic influences nor minimize the intrusion into the prospect's academic commitments.

QUESTION: Will the adoption of Proposal 2007-30-C, still permit the opportunity for senior men's basketball prospective student-athletes to be contacted and/or evaluated during April?

ANSWER: Yes. There will continue to exist approximately a two-week period to contact senior men's basketball prospective student-athletes during the month of April. During that period, coaches will have the opportunity to make off-campus contact with a senior prospect who may

not have received an expected offer from another program. Coaches would also have the opportunity to observe such prospects participating in scholastic athletics activities at their educational institution involving only prospects who attend that educational institution.

Proposal No. 2007-109 – Executive Regulations -- NCAA Properties and Marketing Restrictions -- Exception for Institutions Participating in NCAA Championship Events -- Number of and Access of Videographers and Photographer.

Status: Board of Directors Consideration

Intent: To permit an institution to designate two videographers and one photographer to be present at NCAA championship events involving the institution's teams; further to specify that one videographer shall be permitted access to the area designated for media photographers and shall be limited to capturing video images for nonscouting purposes and to specify that one videographer and the photographer shall have access to the institution's team locker room prior to, during and after the contest, subject to institutional discretion.

Administrative: Amend 31.6.4.3, as follows:

31.6.4.3 Photographs, Films and Videotapes. The Association reserves all rights to the use of still photographs, films and videotapes of its championships. All rights to photograph, film and videotape NCAA championships may be assigned to media representatives for news purposes but otherwise are to be controlled exclusively by NCAA Productions, a unit of the NCAA. NCAA Productions shall film or videotape certain NCAA championships, as recommended by the governing sports committees and approved by the Championships/Competition Cabinet. Its cost in filming or videotaping an NCAA championship and producing prints or video dubs for the NCAA library of films shall be entered as an item of game expenses for that championship. The filming or videotaping of NCAA championships by parties other than NCAA Productions (participating institutions or commercial film production companies) for any purpose other than news purposes may be permitted only with the advance written consent of the NCAA president.

31.6.4.3.1 Exception. An institution is permitted to designate *one* **two** videographers and one photographer to be present at NCAA championships for the purposes of capturing video and still photographs of the member institution's competition in an NCAA championship for the sole use of the institution (not released for further commercial or news purposes). **One videographer shall be permitted access to the area designated for media photographers and shall be limited to capturing video images for nonscouting purposes. The other videographer shall be limited to capturing scouting video. One videographer and the photographer shall have access to the institution's team locker room prior to, during and after the contest, subject to institutional discretion.**

Source: Big 12 Conference.
Effective Date: Immediate
Proposal Category: Amendment
Topical Area: Executive Regulations

Rationale: Current legislation permits an institution to designate a videographer and a photographer to capture video and still photographs at NCAA championships. However, the legislation has been interpreted such that the one video camera that is already being used for

scouting purposes constitutes the one permissible videographer. Institutions should be able to continue capturing the various images necessary to prepare scouting tapes in addition to having a videographer that is present to capture the video for institutional highlight videos and shows. In addition, this type of video is typically captured throughout the season and during conference tournaments in the areas designated for media photographers and videographers. Finally, institutional videographers and photographers are being denied access to their team's locker room at some NCAA championships. Such a decision should be left to the institution's discretion.

Estimated Budget Impact: None.
Impact on Student Athlete's Time: None.
Position Statement(s)

Championships/Competition Cabinet: Based on a recommendation from the NCAA Division I Championships/Competition Cabinet Administrative Committee, the cabinet agreed to oppose Proposal No. 2007-109. The cabinet expressed significant concern over the friction such a proposal could cause with the NCAA broadcast partners, which have exclusive video rights to NCAA championships. Further, for most championships, space designated for photographers is already full and allowing a videographer access to this space would create additional space concerns and could result in local or national media not having the access they deserve. With additional individuals being provided the access as suggested by this proposal, the safety of the participants may be compromised in championships, such as swimming. Finally, the cabinet did note that, if this proposal is defeated, it is important that institutions have access to quality, institution-specific video from the championships to include in institutional videos that are designed to capture a team's accomplishments.

Primary Contact Person:
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History

Jul 05, 2007 Submit; Submitted for consideration.
Sep 20, 2007 Championships/Competition Cabinet, Recommends Defeat
Jan 13, 2008 Mgmt Council 1st Review, Approved
Jan 14, 2008 Board Consideration, Tabled

Proposal Number: 2008-xx

Title: COMMITTEES -- DIVISION I CABINETS AND COMMITTEES -- CHAMPIONSHIPS/SPORTS MANAGEMENT CABINET -- COMMITTEES – FOOTBALL ISSUES COMMITTEE AND FOOTBALL CHAMPIONSHIP COMMITTEE

Intent: To specify that: (a) the Football Championship Committee shall consist of one representative from each conference that is eligible for and applies for an automatic qualification for participation in the Division I Football Championship; (b) if an FCS conference that qualifies for a representative on the Football Issues Committee has a representative on the Football Championship Committee, the same representative shall serve on both committees; (c) the Football Issues Committee shall include one representative from the Football Rules Committee; and (d) the duties of the Football Issues Committee to include postseason bowl licensing responsibilities.

A. Bylaws: Amend 21.7.6.5.3.3, as follows:

21.7.6.5.3.3 Football Issues Committee.

21.7.6.5.3.3.1 Composition. The Football Issues Committee shall *consist of 24 members and shall* be constituted as follows:

[21.7.6.5.3.3.1-(a) unchanged.]

(b) One representative from each of the Football Championship Subdivision conferences from which representatives may be selected to the Football Championship Subdivision Governance Committee as specified in Constitution 4.6.6.1**. If a conference that qualifies for a representative pursuant to this provision has a representative on the Football Championship Committee, the same representative shall serve on both committees**;

(c) Two student-athletes. One student-athlete shall be from the Football Bowl subdivision and one student-athlete shall be from the football championship subdivision; *and*

(d) One representative of the Football Bowl Subdivision and one representative of the Football Championship Subdivision shall be a current head football coach**; and**

(e) One representative from the Football Rules Committee.

21.7.6.5.3.3.2 Duties. The committee shall be responsible for the review of issues related to football in Division I**, including postseason bowl licensing (see Bylaw 30.9)**. Football Bowl Subdivision and Football Championship Subdivision

members shall vote separately on football issues that pertain only to their respective subdivisions.

B. Bylaws: Amend 21.7.6.5.5.3.10, as follows:

21.7.6.5.5.3.10 Football Championship Committee. The Football Championship Committee shall consist of *eight members, including two selected from each Football Championship Subdivision region* **one representative from each conference that is eligible for and applies for an automatic qualification for participation in the Division I Football Championship**.

C. Administrative: Amend 30.9, as follows:

30.9 POSTSEASON BOWL LICENSING

The following conditions and requirements shall be met in order for a postseason bowl game to be licensed.

30.9.1 Written Report. The director of athletics of a member institution that participates in a postseason bowl game shall submit to the *Championships/Sports Management Cabinet* **Football Issues Committee** a written report on the conduct and administration of the event, with special emphasis on game management. The report shall be submitted by the following March 1 on a form approved by the Management Council.

[30.9.2 through 30.9.4 unchanged.]

30.9.5 Application and Review Schedule for Proposed Game. The proposing sponsor's application for the inauguration of a contest must be received at the NCAA national office not later than April 1; any application received after that date must be postmarked not later than March 25. The application shall be reviewed by the *Championships/Sports Management Cabinet* **Football Issues Committee**. The sponsor shall submit, with its application form, a projected financial report showing financial soundness of the proposed game.

30.9.6 Licensing Documents. The *Championships/Sports Management Cabinet* **Football Issues Committee** shall prepare licensing documents that require the management of each postseason bowl game to enter into a contractual agreement through the NCAA certification program. This agreement stipulates that the bowl management agrees to comply with the NCAA's principles for the conduct of intercollegiate athletics, as set forth in Constitution 2 and relevant bylaws and interpretations, and with the restrictions on game negotiations in Bylaw 18.7 in consideration for receiving licensing of its postseason bowl game.

[Remainder of 30.9 unchanged.]

Source: NCAA Division I Board of Directors.

Effective Date: Immediate; composition of committees will be achieved through normal attrition.

Proposal Category: Amendment

Topical Area: Committees

Rationale: With the restructuring of the Division I governance structure and the elimination of the Postseason Football Licensing Subcommittee of the Championships/Competition Cabinet, the time is appropriate to streamline the football committee structure. This proposal is designed to reduce expenditures and increase efficiencies in the structure with both the Football Issues Committee and the Football Championship Committee having more substantive agendas and less duplication of work. Further, because the Football Championship Subdivision representatives on the Football Issues Committee are generally the same representatives that serve on the Football Championship Committee, the proposed change will result in more efficiency for committee members. Since the new Division I governance structure will go into effect in August 2008, this proposal is recommended as noncontroversial legislation so that the recommended change can take effect with the start of the new structure. In addition, further debate and discussion regarding this proposal will not likely change the outcome.

Budget Impact: None.

Impact on S-A's Time: None.

PROPOSAL NO. 2008-7 – ELIGIBILITY -- DEFINITIONS AND APPLICATIONS -- EDUCATION-IMPACTING DISABILITY

Status: Management Council Initial Formal consideration

Intent: To establish a definition of "education-impacting disability" as a current impairment that has a substantial educational impact on a student's academic performance and requires accommodation; further, to replace all legislative references of "learning disabilities" to "education-impacting disabilities."

A. Bylaws: Amend 14.02, as follows:

14.02 DEFINITIONS AND APPLICATIONS

[14.02.1 through 14.02.3 unchanged.]

14.02.4 Education-Impacting Disability. An education-impacting disability is a current impairment that has a substantial educational impact on a student's academic performance and requires accommodation.

[14.02.4 through 14.02.12 renumbered as 14.02.5 through 14.02.13, unchanged.]

B. Bylaws: Amend 14.1.8.2.7.3, as follows:

14.1.8.2.7.3 *Learning-Disabled and Handicapped* Student-Athletes **with Education-Impacting Disabilities.** The Academics Cabinet may waive the 12-hour requirement for a *learning-disabled or handicapped* student-athlete when objective evidence demonstrates that an institution defines full-time enrollment for that student-athlete to be less than 12 hours to accommodate for the student's *learning disability or handicap* **education-impacting disability**.

C. Bylaws: Amend 14.3.1.2, as follows:

14.3.1.2 Core-Curriculum Requirements. For purposes of meeting the core-curriculum requirement to establish eligibility at a member institution, a "core course" must meet all of the following criteria:

[14.3.1.2-(a) through 14.3.1.2-(d) unchanged.]

(e) A course must be taught at or above the high school's regular academic level (remedial, special education or compensatory courses shall not be considered core courses). However, the prohibition against the use of remedial or compensatory courses is not applicable to courses designed for students with *learning disabilities* **education-impacting disabilities** (see Bylaw 14.3.1.2.1.2).

[14.3.1.2.1 unchanged.]

_____

[14.3.1.2.1.1 unchanged.]

14.3.1.2.1.2 Students with *Learning* **Education-Impacting** Disabilities. The Eligibility Center, pursuant to policies and procedures prescribed by the Academics Cabinet, may approve the use of all core courses completed by a student diagnosed with *a learning* **an education-impacting** disability prior to initial full-time enrollment at a collegiate institution.

[14.3.1.2.2 through 14.3.1.2.4 unchanged.]

14.3.1.2.5 Courses for Students with **Education-Impacting** Disabilities. High school courses for students with **education-impacting** disabilities may be used to fulfill the core-curriculum requirements, even if such courses appear to be taught at a level below the high school's regular academic instructional level (e.g., special education courses), if the high school principal submits a written statement to the NCAA Eligibility Center indicating that the courses are substantially comparable, quantitatively and qualitatively, to similar core course offerings in that academic discipline and the courses appear on the high school's list of approved core courses. Students with **education-impacting** disabilities still must complete the required core courses and achieve the minimum required grade-point average in the core curriculum. The fact that the title of a course includes a designation such as "remedial," "special education," "special needs," or other similar titles used for courses designed for students with *learning* **education-impacting** disabilities does not, in and of itself, disqualify a course from satisfying core-curriculum requirements.

[Remainder of 14.3.1.2 unchanged.]

D. Bylaws: Amend 14.3.1.3.3, as follows:

14.3.1.3.3 Nonstandard Test Administration. Students with **education-impacting** disabilities may use scores achieved during a nonstandard administration of the SAT or ACT. A student who takes a nonstandard SAT or ACT still must achieve the minimum required test score; however, the test does not have to be administered on a national testing date.

E. Bylaws: Amend 14.4.3.8, as follows:

14.4.3.8 Waiver -- *Learning-Disabled and Handicapped* Student-Athletes with **Education-Impacting Disabilities**. The Division I Progress-Toward-Degree Waiver Committee may waive the general progress-toward-degree requirements for a *learning-disabled or handicapped* student-athlete when objective evidence demonstrates that the institution has defined full-time enrollment for that student-athlete to be less than 12 hours to accommodate for the student's *learning disability or handicap* **education-impacting disability**.

Source: NCAA Division I Academics/Eligibility/Compliance Cabinet (Subcommittee on Initial-Eligibility Issues).
Effective Date: Immediate
Proposal Category: Amendment
Topical Area: Eligibility

Rationale: The Academics/Eligibility/Compliance Cabinet expressed concern that the current definition of "disability" in NCAA legislation and the term "learning disabilities" does not reflect the actual practice of accommodating all disabilities that impact a student's ability to learn. This proposal broadens the scope of accommodations and waivers to include all handicapping conditions and disorders that impact academic performance and require accommodation, including physical impairments (e.g., hearing loss). The NCAA's emphasis on providing accommodations for individuals with learning disabilities would not change as a result of this proposal. Rather, the proposal ensures the current practice of accommodating education-impacting disabilities is codified in the legislation. Since broader consultation and debate are unlikely to improve this proposal in any substantial way, nor is it expected that significant disagreement or alternative points of view will be generated or that there will be a significant impact on existing legislation. Moreover, it is important to have the legislation in place for the 2008-09 academic year in order to ensure a consistent application of accommodation and waiver policies and procedures.

Estimated Budget Impact: None.
Impact on Student Athlete's Time: None.
Primary Contact Person:
na

EXCERPT FROM THE REPORT OF THE JUNE 9-11, 2008, NCAA DIVISION I ACADEMICS/ELIGIBILITY/COMPLIANCE CABINET

***ACTION ITEM*.**

- **Legislative – Request for Legislative Action by the NCAA Division I Management Council Administrative Committee.** (See the Attachment for the full text of the proposal forwarded to the Management Council Administrative Committee as noncontroversial legislation.)

  - **NCAA Proposal No. 2008-7 – Eligibility – Education-Impacting Disabilities.**

    (1) Recommendation. The NCAA Division I Academics/Eligibility/Compliance Cabinet recommends that the Management Council Administrative Committee approve and forward noncontroversial legislation to the NCAA Division I Board of Directors for adoption to establish a definition of "education-impacting disability" as a current impairment that has a substantial educational impact on a student's academic performance and requires accommodation, and to replace all references to "learning disabilities" to "education-impacting disabilities."

    (2) Effective Date. Immediate.

    (3) Rationale. Currently, there is no working definition of "disability" in NCAA legislation, and the term "learning disabilities" does not reflect actual practices of accommodating all disabilities that impact a student's ability to learn. This proposal broadens the scope of accommodations and waivers to include all handicapping conditions and disorders that impact academic performance, including physical impairments (e.g., hearing loss). The NCAA's emphasis on providing accommodations for individuals with learning disabilities would not change as a result of this proposal. Rather, the proposal would ensure that the actual practice of accommodating education-impacting disabilities is codified in the legislation. This change is requested as noncontroversial legislation, inasmuch as broader consultation and debate are unlikely to improve the proposal in any substantial way, significant disagreement or alternative points of view will not be generated and there does not appear to be a significant impact on existing legislation or proposed legislation. In addition, it is important to have the legislation in place for the 2008-09 academic year for a consistent application in relation to various accommodation and waiver policies and procedures.

REPORT OF THE NCAA DIVISION I COMMITTEE ON INFRACTIONS

1. ACTION ITEMS

a. Issue/Subject. Amend Bylaw 32.3.9.1.1.

Intent: To allow the enforcement staff to provide a copy of the interview summary from a non-recorded interview to the individual interviewed and his/her counsel.

Bylaw: Amend Bylaws 32.3.9.1.l, 32.3.9.2 and 32.3.9.2.1 as follows:

32.3.9.1.1 Access to Recordings and Transcripts.

Both the enforcement staff and the interviewee may record the interview or the interviewee may receive a copy of the recording and if prepared by the enforcement staff, the interview transcript, subject to the confidentiality provisions of Bylaws 32.3.9.2.1 and 32.3.9.1.4. Copies of recorded interview summaries and any report prepared by the enforcement staff are confidential and shall *not* **only** be provided to interviewees (and their institutions) *except* as set forth in Bylaw**s** 32.6.4 **and 32.3.9.2.** *(Revised: 4/24/03, 4/10/06, 6/11/07)*

32.3.9.2 Non-Recorded Interviews.

When an interview is not recorded or in circumstances when the recording device malfunctions, the enforcement staff shall prepare a written summary of the information and attempt to obtain a signed affirmation of its accuracy from the interviewee. The interviewee shall be permitted to make additions or corrections to the memorandum before affirming its accuracy. **In order to obtain the interviewee's signature, the enforcement staff may provide a copy of the unsigned summary to the interviewee and his/her counsel. Further, once the summary is signed, the interviewee and his/her counsel may receive a signed copy.** However, testimony as to the substance of an unrecorded interview for which a signed affirmation was not obtained may nevertheless be considered by the Committee on Infractions to the extent the committee determines the testimony to be reliable. *(Revised: 4/24/03, 4/10/06)*

32.3.9.2.1 Confidentiality of Non-Recorded Interview Documents.

Copies of non-recorded interview summaries and any report prepared by the enforcement staff are confidential and shall not be provided to individuals (or their institutions) who may be involved in reporting information during the

processing of an infractions case except as set forth in Bylaws **32.3.9.2,** 32.3.10 and 32.6.4. *(Revised: 4/24/03)*

Source: Division I Committee on Infractions.

Effective Date: Immediate.

Category: Amendment.

Topical Area. Enforcement Procedures.

Rationale: The recommended changes would facilitate obtaining an interviewee's signed affirmation of the accuracy of the interview summary of a non-recorded interview. With this change, the staff would be able to send an electronic copy of the summary to the interviewee for review, and discuss any changes over the telephone. Otherwise, as currently required, the staff must travel to the interviewee in order for him/her to review, make changes and sign.

Further, once the interviewee signs the summary, the enforcement staff would provide a signed copy of the summary to the interviewee and his/her counsel. The provision of the signed copy is similar to the current treatment of interviewees of recorded interviews since they may receive a copy of the digital recording (and transcript when applicable) of the recorded interview. In all instances of providing any record related to an interview (e.g., summary, recording), the enforcement staff requires the interviewee and his/her counsel to execute a confidentiality agreement as a condition of receiving the record.

Estimated Budget Impact: None

Impact on Student-Athlete's Time: None

Primary Contact Person: Shepard C. Cooper, Director – Committees on Infractions

b. Issue/Subject. Amend Bylaw 32.7.1.4.3.

Intent: To specify that if the Committee on Infractions accepts the agreed-on findings of the summary disposition process but imposes additional penalties, the institution and/or involved individuals may request an expedited hearing on penalties; further, to specify that the committee shall only consider information relevant to the imposition of penalties during an expedited hearing.

Bylaw: Amend 32.7.1.4.3 as follows:

32.7.1.4.3 Penalties Not Approved. If the committee accepts the agreed-upon findings but *does not approve the proposed penalties* **proposes penalties in addition to those set forth in the summary disposition report**, the institution and/or involved individuals may *elect to participate in* **request** an expedited hearing **on penalties before the Committee on Infractions**. *Expedited hearings shall be conducted based on the findings submitted, and the institution and involved individuals may present additional information regarding the uniqueness of the case and mitigating factors. If the institution or the involved individuals decline to participate in an expedited hearing, the hearing process set forth in Bylaws 32.8 and 32.9 shall be followed.* T**he committee shall only consider information relevant to the imposition of penalties during the expedited hearing. At the conclusion of the expedited hearing, the committee shall prepare a written report and provide notification of the committee's actions consistent with Bylaw 32.9. The institution and/or any involved individuals may appeal the additional penalties to the Infractions Appeals Committee in accordance with Bylaws 32.10 and 32.11.**

Source: The NCAA Division I Committee on Infractions.

Effective Date: Immediate.

Proposal Category: Policies/Procedures.

Topical Area: Enforcement Procedures.

Rationale: In order to pursue the summary disposition process, the institution, enforcement staff and participating involved individuals must agree to findings as set forth in the summary disposition report. Also included in the summary disposition report are proposed penalties submitted by the institution and an acknowledgement by the involved individuals that a show-cause order may be imposed. If the Committee on Infractions rejects the agreed-upon findings, the hearing process set forth in Bylaws 32.8 and 32.9 is followed. If the Committee on Infractions accepts the agreed-upon findings submitted by the parties but seeks to impose additional penalties against the institution or a show-cause order against an involved individual, the institution and/or involved individual may request an expedited hearing. Because the committee has already accepted the findings as previously agreed to by the parties, the Committee on Infractions should only be required to address the imposition of penalties during an expedited hearing.

Estimated Budget Impact: None.

Impact on Student Athlete's Time: None.

Primary Contact Person: Shepard C. Cooper, Director – Committees on Infractions

A G E N D A

National Collegiate Athletic Association

Task Force on Commercial Activities in Intercollegiate Athletics

Dallas, Texas — July 25, 2008
Grand Hyatt DFW — 8:30 a.m. to 2 p.m.
8:00 a.m. breakfast

1. Welcome and review of report from the April 12, 2008, meeting. [Supplement No. 1]

2. Review and discussion of historic narrative. [Supplement No. 2]

3. Review of revised Task Force charge. [Supplement No. 3]

4. Examination of principles. [Supplement No. 4]

5. Review of guidelines. [Supplement No. 5]

6. Fantasy League legislation.

7. Other issues and next steps.

8. Adjournment.

The National Collegiate Athletic Association
June 30, 2008 SDB/EED:vlm

FANTASY SPORTS GAMES

- **General Fantasy Overview:** Fantasy Sports games allow users to become the coach of their own personal sports teams and compete against others creating fantasy teams. Users select teams of real athletes chosen from among all eligible athletes on all teams within a league and compete against other team coaches for the league championship. The game and its rules are designed to mimic real play as much as possible, so each player's real-game statistics from the previous week's play are used in calculating fantasy wins and losses.

  Fantasy Sports have been in existence since 1963. By 1988, USA Today reported 500,000 Americans participated in Fantasy Sports. Those fans largely used statistics and box scores taken from newspaper sports pages. The industry grew considerably between 1994 and 2001 when statistics became available in real-time through the Internet. In 2002, the NFL became the first professional league to launch an online fantasy game. Today, all major sports media outlets and leagues have fantasy games, and virtually all fantasy games are played using the Web in some way

- **Fantasy Sports Market Place:** Published reports indicate that there are more than 22 million people who play fantasy sport league-type contests in North America. The total market size is estimated at more than $1.5 billion, including sponsorships, endorsements, contest management and advertising.

  These consumers are primarily college-educated males, average age of 36, with an average of $76,000 in annual household income, and are married with children. ESPN, CBSsports.com, YAHOO!, and Fox Sports are four of the major media companies that produce Fantasy Sports games for football, baseball, basketball and ice hockey. These games are designed to automate the fantasy sports process allowing participants to select players prior to the season and choose which players to play each week, compile the statistics for each week in order to determine the outcome of each head-to-head match-up and keep standings (i.e. win-loss records of each participant's team) for the season. Some fantasy web sites have subscription or registration fees, but others are supported only through advertising revenue.

- **Example of calculating a Fantasy Football's athlete performance:** Each fantasy participant selects players that play a specific position prior to the start of the season. For football, fantasy participants select quarterbacks, running backs, wide receivers, tight ends, kickers and a team defense making up a participant's team. Each week a participant's team will compete against another participant's team in the league in a head-to-head matchup. During a matchup, each of the players in a participants starting lineup for that week will earn points based on player's actual statistics from their respective game. For example: If Peyton Manning throws three touchdown passes and for 300 yards during a game, the participant would register 18 points for the three touchdowns (six points per touchdown) and 12 points for the 300 yards of passing (1 point per 25 yards). Stats from each player and the participant's team are totaled. The fantasy participant that registers the most points in the head-to-head match-up wins the game for the week.

PRESIDENTIAL TASK FORCE ON COMMERCIAL ACTIVITY IN INTERCOLLEGIATE ATHLETICS
Graham Spanier, chair

Subd	Name and Contact Information	
FBS	President Michael F. Adams University of Georgia Administration Building Athens, Georgia 30602 Phone: 706/542-6529 Fax: 706/583-0736 E-mail: presuga@uga.edu	Southeastern Conference Current chair of NCAA Executive Committee Member of Knight Commission Chair of SEC presidents group
FBS	President James Barker Clemson University 201 Sikes Hall Clemson, South Carolina 29634-0001 Phone: 864/656-3413 Fax: 864/656-4676 e-mail: jbarker@clemson.edu	Atlantic Coast Conference Current chair of Division I Board of Directors
FBS	President Frank Brogan Florida Atlantic University 777 Glades Road, Adm. - 334 Boca Raton, Florida 33431 Phone: 561/297-3450 Fax: 561/297-3963 E-mail: brogan@fau.edu	Sun Belt Conference Current Division I Board of Directors member
FBS	President David B. Frohnmayer University of Oregon 1098 East 13th Avenue, 110 Johnson Hall Eugene, Oregon 97403-1226 Phone: 541/346-3036 Fax: 541/346-3017 E-mail: pres@oregon.uoregon.edu	Pacific-10 Conference Chair of BCS Oversight Group
Div 1	President Walter Harrison University of Hartford 200 Bloomfield Avenue West Hartford, Connecticut 06117-1599 Phone: 860/768-4417 Fax: 860/768-5417 E-mail: horky@mail.hartford.edu	America East Conference Former NCAA Executive Committee chair Current Division I Committee on Academic Performance member

Subd	Name and Contact Information	Conference Representing
FBS	Chancellor Harvey Perlman University of Nebraska, Lincoln Administration Building 201 Lincoln, Nebraska 68588-0419 Phone: 402/472-2116 Fax: 402/472-5110 E:mail: hperlman1@unl.edu	Big 12 Conference Chair of Big 12 Presidents group. Member of the Group of Six presidents.
FBS	President John G. Peters Northern Illinois University Altgeld Hall #300 DeKalb, Illinois 60115 Phone: 815/753-9500 Fax: 815/753-8686 E-mail: jpeters@niu.edu	Mid-American Conference
FBS	President Shirley Raines University of Memphis 341 Administration Building Memphis, Tennessee 38152-3730 Phone: 901/678-2234 Fax: 901/678-5065 E-mail: sraines@memphis.edu	Conference USA Current Division I Board of Directors member Chair of the Oversight and Monitoring Group
FBS	President David Schmidly University of New Mexico MSC05 3300 Albuquerque, New Mexico 87131-0001 Phone: 505/277-2626 Fax: 505/277-5965 E-mail: unmpres@unm.edu	Mountain West Conference
FBS	President Graham B. Spanier (chair) Pennsylvania State University 201 Old Main Building University Park, Pennsylvania 16802-1589 Phone: 814/865-7611 Fax: 814/863-8583 E-mail: gspanier@psu.edu	Big Ten Conference

Subd	Name and Contact Information	Conference Representing
FBS	President Nancy L. Zimpher University of Cincinnati 2624 Clifton Avenue Cincinnati, Ohio 45221 Phone: 513/556-2201 Fax: 513/556/2347 E-mail: nancy.zimpher@uc.edu	Big East Conference Current Division I Board of Directors member Member of the Oversight and Monitoring Group

Consultants:

Subd	Name and Contact Information	Conference Representing
FBS	Ms. Elizabeth Altmaier Faculty Athletics Representative University of Iowa 360 Linquist Center Iowa City, Iowa 52242 Phone: 319/335-5566 Fax: 319/335-9417 E-mail: elizabeth-altmaier@uiowa.edu	Big Ten Conference Member of the Committee on Student-Athlete Likenesses Member of the Division I Academics/Eligibility/ Compliance Cabinet
FBS	Mr. Robert A. Bowlsby Director of Athletics Stanford University Arrillaga Family Sports Center, Suite 210 Stanford, California 94305-6150 Phone: 650/723-4596 Fax: 650/725-8642 E-mail: bowlsby@stanford.edu	Pacific-10 Conference
FBS	Ms. Christine A. Plonsky Director of Women's Athletics University of Texas at Austin 2100 San Jacinto, Belmont 224 Austin, Texas 78712 Phone: 512/471-4780 Fax: 512/471-2378 E-mail: cplonsky@mail.utexas.edu	Big 12 Conference Member of the Committee on Student-Athlete Likenesses

Subd	Name and Contact Information	Conference Representing
FCS	Mr. Doug Fullerton Commissioner Big Sky Conference 2491 Washington Boulevard, Suite 201 Odgen, Utah 84401 Phone: 801/392-1978 Fax: 801/392-5568 E-mail: dfullerton@bigskyconference.org	Big Sky Conference
FBS	Mr. John D. Swofford Commissioner Atlantic Coast Conference 4512 Weybridge Lane Greensboro, North Carolina 27407 Phone: 336/854-8787 Fax: 336/547-6268 E-mail: jswofford@theacc.org	Atlantic Coast Conference Chair of BCS Commissioners
FBS	Mr. Craig Thompson Commissioner Mountain West Conference 15455 Gleneagle Drive, Suite 200 Colorado Springs, Colorado 80921 Phone: 719/488-4040 Fax: 719/487-7240 E-mail: cthompson@TheMWC.com	Mountain West Conference Chair of NCAA Football
FBS	Mr. Keith R. Tribble Director of Athletics University of Central Florida Wayne Densch Sports Center #38 P.O. Box 163555 Orlando, Florida 32816-3555 Phone: 407/823-2261 Fax: 407/823-5293 E-mail: ktribble@athletics.ucf.edu	Conference USA Former Executive Director, Orange Bowl Current Division I Management Council member

Staff:

David Berst, primary liaison
Myles Brand
Beth DeBauche
David Knopp
David Knopp
Wally Renfro
Greg Shaheen, primary liaison

The National Collegiate Athletic Association
June 27, 2008 SDB:vlm

ADDENDUM F
SUPPLEMENT NO. 13
DI Board of Directors 8/08

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

The NCAA Division I Task Force on Commercial Activity in Intercollegiate Athletics submits the following report from its July 25, 2008, meeting:

- ***INFORMATIONAL ITEMS***.

1. Fantasy League. The Task Force received a thorough presentation from NCAA corporate partner CBS regarding the growth and development of fantasy sports leagues. Thereafter, the Task Force learned from staff that a recent ruling by the 8th Circuit Federal Court of Appeals in the case of CSC Distrib. And Mkting. Inc. v. Major League Baseball Advanced Media L.P., in which the court applied Missouri State law to professional fantasy leagues has lead fantasy sports games distributors to conclude that offering a college football fantasy game that includes names and game statistics of college student-athletes would be consistent with the ruling. The Task Force was informed of a July 2008 NCAA rule interpretation which states the use of a student-athlete's name in connection with a fantasy sports game even when there is not an entry fee or prize associated is a violation of NCAA bylaws.

   Given the apparent conflict between NCAA rules and the court ruling, the Task Force discussed the situation at length, including possible responses. It was noted that a cease and desist letter would be sent by the Association on behalf of its members and student-athletes to any distributor engaged in such activities. The Task Force noted that the Division I Board of Directors should be encouraged to address whether fantasy sports games that adhere to certain parameters necessarily violate the principles of amateurism. Additionally, the Task Force noted there appears to be a need to study whether actual licensing of NCAA and/or institutional trademarks and mascots may be appropriate to ensure the proper quality control for such games.

2. Review and discussion of historic narrative. The Task Force reviewed a historic narrative entitled "Bringing Balance to Commercial Activity in Intercollegiate Athletics," which was intended to assist the group as it seeks to align the commercial activities associated with intercollegiate athletics with the rest of higher education. Group members noted that the document should not be referenced as "a discussion of principles," given its narrative form, but they did suggest the statement should be included as part of any final Task Force report to help provide helpful contextual information. Group members were encouraged to provide their comments and edits to the narrative and to share them with the staff.

3. Review of revised Task Force charge. The Task Force members concurred that the group's charge of developing guiding principles that clearly identify the balance point

between unrealistic idealism and crass commercialism, is sufficiently detailed so that ultimately, principles and guidelines can be developed that can easily translate into enforceable rules as appropriate.

4. Foundation for discussion. Group members discussed the fact that, given the broad nature of its charge, any failure by the Task Force to address an issue may be viewed by the membership as a tacit endorsement of a current practice or activity. Accordingly, members were asked to consider whether they were comfortable with the current state of commercial activities relative to intercollegiate athletics. In response, some members shared specific concerns, and it was suggested that in the final Task Force report examples of these concerns should be given to help make the case for a balanced approach to commercial activities. Making the case for a more balanced approach, in turn, will help lay the foundation for the development of principles, guidelines and possible regulations.

5. Examination of principles. The Task Force members explored a variety of approaches they could take to develop a statement of principles.

   a. Making the clear distinctions between principles and guidelines. Members suggested that it may be helpful in seeking to develop a statement of principles to better define the distinction between principles and guidelines, to ensure the development of more accurate statements. Members suggested that principles should be a reflection of beliefs, while guidelines should include measureable standards that may, in some circumstances, lead to enforcement mechanisms.

   b. Charge to Task Force members. The Task Force members and staff were charged with reviewing a draft of principles and guidelines to offer their comments and suggested revisions. Members were encouraged to provide feedback to the staff liaisons within the next seven to 10 days. [Note: Specific comments offered by members during the meeting regarding the principles and guidelines were recorded by staff.]

6. Review of guidelines. The group recommended that, as final guidelines are developed, examples should also be provided to help illustrate the application of the guidelines. The members suggested that examples illustrate the optimum application, the minimum application and the aspirational application of the guidelines. The members noted the process of developing these examples would help in strengthening the guidelines as difficulty in identifying examples would help illustrate weaknesses in the guidelines.

7. Level of consistency. The Task Force began to discuss whether there needed to be a level of consistency in the approach to commercial activity across the enterprise. Members generally opined that principles should be consistent but acknowledged that there may naturally be a degree of inconsistency in the application. While the group did not take a formal position, and it is anticipated this issues may be discussed further at a future meeting, the group did concur there should be an effort to strive for more consistency.

8. Other issues and next steps. The next meeting of the Task Force is scheduled for October 6, 2008. The staff will send out information regarding the specific time and location of the meeting. In the interim, Task Force members and staff are encouraged to share their thoughts and ideas regarding this important project.

Task Force chair: Graham B. Spanier (chair), Pennsylvania State University
Staff liaisons: David Berst, governance
Beth DeBauche, governance
Bernard Franklin, governance & membership and education services
David Knopp, corporate and broadcast alliances
Kevin Lennon, membership services
Wally Renfro, president's office
Greg Shaheen, division I men's basketball

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. That 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 the 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, seek 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.

Included in this current mailing to the Task Force is a narrative that provides historic perspective to the early emergence of commercial activity associated with intercollegiate athletics. The narrative also addresses the confusion within higher education and among its supporters regarding the scale and scope of commercial activity as such activity has increased against the backdrop of a bedrock devotion to the amateur status of students competing in collegiate sports and the development of professional sports characteristics within intercollegiate athletics in terms of highly compensated coaches, expanded and grand facilities, growing media presence, and a burgeoning need for broader revenue streams.

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 nuture 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.

To reiterate, then, the charge to the task force is 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.

College sports' media and corporate partners would like to receive and need our guidance. With properly formulated guidance, combined with focused contractual agreements, they can and will be good partners. By and large, the media and corporations want to work cooperatively with the higher education community; and we need to help them do so. For those who do not want to do so, we should refrain from doing business with them.

The task force should develop the principles that clearly establish this balanced position. These principles 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.

Finally, included with this mailing is a set of principles that have been developed by the staff in accordance with the direction suggested through discussion by the task force in its initial meeting. When the task force is satisfied with the work product, the recommendations will be submitted to the Division I Board of Directors.

REPORT OF THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I OVERSIGHT AND MONITORING GROUP

Participants: July 2, 2008

Michael Alden, University of Missouri, Columbia
Percy Bates, University of Michigan
Robert Caret, Towson University
Tom Hansen, Pacific-10 Conference
Walter Harrison, University of Hartford
Jack Jewett, California State University, Monterey Bay
James Moeser, University of North Carolina, Chapel Hill
Shirley Raines, University of Memphis (chair)
Nancy Zimpher, University of Cincinnati
S. David Berst, NCAA
Myles Brand, NCAA
Beth DeBauche, NCAA, recording secretary

Committee members Damon Evans, University of Georgia and Peter Likens, University of Arizona were unable to participate in the meeting.

NCAA staff members Becky Ahlgren-Bedics, Gary Brown, Megan Coyne (intern), Amy Huchthausen, Jim Isch, Corey Jackson, Charnele Kemper, Carrie Leger, Kevin Lennon, Pat McConney, Carol Reep and Wallace Renfro were also present during portions of the meeting.

***ACTION ITEM*.**

- **The future of the Oversight and Monitoring Group.**

  1. Recommendation: That the Division I Board of Directors officially disband the Division I Oversight and Monitoring Group inasmuch as that group has completed the charge it received from the Board of Directors, with the understanding the group will continue to monitor progress on some of the more significant task force recommendations.

  2. Rationale: At its April 26, 2007, meeting, the Division I Board of Directors established the Oversight and Monitoring Group and charged the group with prioritizing consideration of the recommendations listed in The Second-Century Imperatives Report, developing suggested strategies for possible consideration of the recommendations, monitoring consideration of the various recommendations; and communicating to the Board of Directors regarding consideration of the recommendations. After review of the progress made to-

date by the Division I governance structure on the various initiatives, the Oversight and Monitoring Group (OMG) determined that it has fulfilled its charge.

INFORMATIONAL ITEMS.

a. **Review OMG's discussions to date.** The group approved the minutes of the December 17, 2007, conference call.

b. **Update regarding progress made in implementing the various Presidential Task Force recommendations.**

1. **Overall review of progress to-date**. The group reviewed the tracking report that listed the status of all the initiatives identified by the Presidential Task Force on the Future of Division I Intercollegiate Athletics and learned that of the 62 initiatives identified by the task force, over 50 of the initiatives were either completed or are in the process of being addressed by the governance structure or the membership. During this review, it was noted that the governance structure has truly embraced its charge to examine the initiatives identified by the task force and that as a result of this effort, the NCAA's relationship with a number of constituent groups has been enhanced.

2. **Review of on-going work surrounding "at risk" student-athlete issues.** The group received an update on efforts to address the number of initiatives pertaining to students classified "at risk". The group noted the importance of this work and discussed the obligation institutions have to see their student-athletes academically succeed. The group, while acknowledging the good work that is being done by this working group, suggested that a new label other than "at risk" be identified as that label has negative connotations. The group strongly recommended that the Division I Athletics Certification Program, as part of its examination process, review institutional policies regarding admissions. Specifically, it was suggested that presidents/chancellors should not have the authority to admit students as a matter of institutional policy.

3. **Feedback regarding the dashboard indicators program and other developments in the fiscal area.** Group members shared feedback heard at conference spring meetings in which they participated. The members discussed the importance of maintaining the momentum regarding the dashboard indicators within the Division I membership and suggested the 31 multisport conferences can play an important role in promoting the program. The group recommended that information on dashboard indicators be shared with new

presidents as part of the NCAA's orientation program and that the membership be reminded of the staff's educational outreach efforts. The group commended the staff on its efforts to enhance relationships with outside constituent groups such as NACUBO.

4. **Update regarding the enhanced relationship with the Association of Governing Boards and on-going initiatives with the AGB.** The group learned that as a bi-product of the work of the Presidential Task Force on the Future of Division I Intercollegiate Athletics, the NCAA's partnership with the AGB has been greatly enhanced and they have collaborated on educational programming regarding the proper role of governing boards in the oversight of intercollegiate athletics. The group suggested that in developing additional programming, a distinction be made between the role of system governing boards and institutional boards. The group was also reminded that the AGB recently issued a revised version of its Statement on Board Responsibilities for Intercollegiate Athletics. The group discussed ways to promote this useful document, including suggesting that Board members annually acknowledge they have reviewed the report.

5. **Task Force on Commercial Activity in Intercollegiate Athletics**. The group received an update from the NCAA President on the preliminary work of the Task Force on Commercial Activity in Intercollegiate Athletics. The group acknowledged that this task force is charged with examining both a difficult and important issue that will have a major impact on the future of intercollegiate athletics. The group learned that the task force is seeking to develop guiding principles to help member institutions, conferences and the National Office address issues pertaining to commercial activity in light of the ever-changing media landscape. The group noted it appears the task force is making good progress.

6. **Changes in the Athletics Certification Program.** The group received an update on the changes to the Athletics Certification Program in the third cycle, which includes an enhanced set of principles and guidelines in a variety of areas including those relating to institutional control and oversight of athletics spending. The group learned that many of the changes to the measureable standards are a result of suggestions made by the Presidential Task Force on the Future of Division I Intercollegiate Athletics and indicated that they thought the program was properly positioned to influence behavior as much as it can without invading institutional autonomy. The group recommended that the Committee on Athletics Certification reconsider the task force's recommendation that provides for "certification with conditions" in cases where internal or external parties interfere with presidential control. The group

suggested that the committee develop a method to inform presidents regarding changes to the athletics certification program when they occur and recommended that a reflective process be developed as part of the certification process to help institutions determine how decisions regarding athletics align with institutional values. Finally, the group suggested that the multisport conferences be encouraged to incorporate information regarding athletics certification into their meeting agendas.

7. **Examination regarding time demands on student-athletes and update regarding student-athlete well-being initiatives.** The group received an update regarding efforts of the Division I Student-Athlete Advisory Committee (SAAC) and other governance groups to examine the issue of time demands on student-athletes. The group acknowledged that the previous focus on providing more education regarding the "20-hour rule" seems to be a good approach and they commended the SAAC for taking a leadership role regarding this important issue. During this review, group members noted that faculty members, particularly faculty athletics representatives, should be of assistance to student-athletes who face time-demand issues. The group suggested that this information also be shared with FARA so that faculty can use this issue as an opportunity to build stronger relationships with student-athletes.

8. **Review of discussion regarding the NCAA championships experience**. The group learned that in response to the recommendations of the Presidential Task Force on the Future of Division I Athletics, the staff has shared with the Division I Championships/Competition Cabinet the following questions to help ensure the cabinet members keep student-athlete well-being issues at the forefront of their decision-making process:

   - Whether we are staying true to the NCAA's mission of having the student-athlete experience remain at the forefront of our regular season and post-season NCAA championship experiences;
   - Are we doing what is best for student-athletes with respect to their regular season and post-season NCAA championship experience as we make decisions respective to the growth and enhancement opportunities within our championships; and
   - Do our NCAA rules provide for good student-athlete regular season and post-season NCAA championship experience?

   The group also learned that as Division I moves to a new governance structure, the staff hopes to keep these student-athlete well-being themes at the center of the Championships/Sports Management Cabinet's conversations. The group

was encouraged to learn that the process used to survey student-athletes regarding their championships experience is scheduled to be expanded.

9. **Examination of various diversity initiatives.** The group received an update from NCAA staff regarding a variety of diversity initiatives intended to help expand recruiting networks and identify broader talent pools. The group also learned about a few conference-based initiatives designed to expand hiring networks. The group discussed the importance of ensuring a higher level of diversity working in intercollegiate athletics and noted its pleasure in learning that the Division I Leadership Council has been asked to seek to identify ways to enhance the level of diversity in intercollegiate athletics as one of its first agenda items.

10. **Identification of additional strategies for consideration.** The group agreed that a template that could allow presidents to conduct a self-analysis regarding decisions pertaining to intercollegiate athletics would be a helpful leadership tool. The group noted there may be value in tying such a self-assessment tool to the Athletics Certification Program. The group agreed that the staff should continue its work on developing a draft instrument and various committee members agreed to provide assistance and direction regarding this project.

c. **Closing comments and adjournment**. The group thanked Shirley Raines, as chair of the group, for her leadership and service to Division I.

Chair: Shirley Raines, University of Memphis
Staff liaisons: S. David Berst, governance
Beth DeBauche, governance
Jim Isch, administrative services

ADDENDUM B
SUPPLEMENT NO. 14
DI Board of Directors 8/08

Proposal Number: 2008-xx

Title: NCAA MEMBERSHIP AND CHAMPIONSHIPS AND POSTSEASON FOOTBALL -- CONDITIONS AND OBLIGATIONS OF MEMBERSHIP -- OPERATING AND CAPITAL FINANCIAL DATA REPORT

Intent: To specify that an institution shall submit financial data detailing operating revenues, expenses and capital related to its intercollegiate athletics program to the NCAA on an annual basis, as specified, as a condition and obligation of membership and in order to be eligible to enter a team or individual in NCAA championship competition.

A. Constitution: Amend 3.2.4, as follows:

3.2.4 Conditions and Obligations of Membership.

[3.2.4.1 through 3.2.4.15 unchanged.]

3.2.4.16 Operating and Capital Financial Data Report. An institution shall submit financial data detailing operating revenues, expenses and capital related to its intercollegiate athletics program to the NCAA on an annual basis in accordance with the financial reporting policies and procedures. The required data shall include, but is not limited to, the following:

(a) Salary and benefits data for all athletics positions. The data shall include base salary, bonuses, endorsements, media fees, camp or clinic income, deferred income and other income contractually guaranteed by the institution;

(b) Capital expenditures (to be reported in aggregate for athletics facilities), including capitalized additions and deletions to facilities during the reporting period, total estimated book value of athletically related plant and equipment net of depreciation, total annual debt service on athletics and university facilities and total debt outstanding on athletics and university facilities;

(c) Value of endowments at fiscal year-end that are dedicated to the sole support of athletics;

(d) Value (at the time of submission or the report) of all pledges that support athletics; and

(e) The athletic department fiscal year-end fund balance.

3.2.4.16.1 Verification and Certification. The report shall be subject to annual agreed-on verification procedures approved by the membership (in addition to any regular financial reporting policies

and procedures of the institution) and conducted by a qualified independent accountant who is not a staff member of the institution and who is selected either by the institution's president or chancellor or by an institutional administrator from outside the athletics department designated by the president or chancellor. The independent accountant shall verify the accuracy and completeness of the data prior to submission to the institution's president or chancellor and the NCAA. The institution's president or chancellor shall certify the financial report prior to submission to the NCAA.

B. Constitution: Amend 6.2.3, as follows:

6.2.3 Financial Report--Procedures. All expenses and revenues for or on behalf of an institution's intercollegiate athletics program, including those by any affiliated or outside organization, agency or group of individuals (two or more), shall be subject to annual agreed-on procedures approved by the membership (in addition to any regular financial reporting policies and procedures of the institution) conducted for the institution by a qualified independent accountant who is not a staff member of the institution and who is selected either by the institution's president or chancellor or by an institutional administrator from outside the athletics department designated by the president or chancellor.

6.2.3.1 Schedule. The report created pursuant to the approved procedures shall be completed for one fiscal year and presented to the president or chancellor on or before January 15 following the end of the institution's fiscal year.

C. Bylaws: Amend 18.4.2.1, as follows:

18.4.2 Institutional Eligibility.

18.4.2.1 General Institutional Requirements. To be eligible to enter a team or an individual in NCAA championship competition, an institution shall:

[18.4.2.1-(a) through 18.4.2.1-(e) unchanged.]

(f) Have submitted its race and demographic information to the NCAA through the official submission process; *and*

(g) Have submitted its financial data detailing operating revenues, expenses and capital related to its intercollegiate athletics program to the NCAA through the official submission process (see Constitution 3.2.4.16); and

[18.4.2.1-(g) renumbered as 18.4.2.1-(h), as unchanged.]

Source: NCAA Division I Board of Directors.

Effective Date: August 1, 2009

Proposal Category: Amendment

Topical Area: Division Membership

Rationale: This recommendation is a result of the work of the Presidential Task Force on the Future of Division I Intercollegiate Athletics. The task force found that the threats to the future of intercollegiate athletics are nearly all connected to the need for ensuring the financial integrity of intercollegiate athletics. In order to bring focus to the financial realities for intercollegiate athletics and relieve the financial stress, or even avert a looming crisis, it will fall to presidents and chancellors to give impetus and direction to the effort. Creating a national policy to collect and promulgate clear and concise data will allow presidents and chancellors to use the data to align athletics budgeting with institutional mission to strengthen the enterprise. Financial data related to athletics departments and programs will be collected in a timely manner using uniform and common definitions. A full and comprehensive financial picture of revenues, expenditures and capital improvements related to intercollegiate athletics will be readily available to decision-makers for use in strategic planning and policy development. Ratios or data points (dashboard indicators) will provide simple comparisons among institutions. Finally, collected data will be codified and presented in a manner that protects institutional and individual privacy.

Budget Impact: None.

Impact on S-A's Time: None.

ADDENDUM
SUPPLEMENT NO. 14
DI Board of Directors 8/08

ACADEMIC VALUES

a. Intercollegiate athletics must be fully integrated into the academic mission of universities and colleges. Academics must come first, and the success of student-athletes, both on and off the field, must be the defining characteristic of college sports.

- The OMG recommended the development of an instrument that presidents could use to reflect on issues pertaining to integration.
- The staff is currently developing a draft instrument to assist presidents and is seeking assistance from the athletics certification team. (7/08)

b. Faculty members must participate in the guidance of intercollegiate athletics and help ensure the integrity of the student-athlete academic experience. Faculty members must also be as fully engaged in providing advice on planning and financial issues in athletics as in other parts of the campus and that advice should be weighed carefully by the athletics leadership and the president. Given this responsibility faculty members must make the effort to understand the intercollegiate athletics enterprise.

- CAC has revised third-cycle self-study instrument to encourage campus dialogue on this topic during the self-study. (3/31/08)
- FARA Executive Committee has been encouraged to become involved in this discussion. Additionally, this information has been shared with FARA. (3/19/08)

c. The FAR should monitor the successful integration of athletics and academics.

- CAC has revised third-cycle self-study instrument to encourage dialogue on this topic. (3/31/08)
- FARA Executive Committee has been encouraged to examine this issue. Additionally, this information has been shared with FARA. (3/19/08)

d. Institutions should strive to have a well-functioning independent faculty athletics committee.

- CAC has revised third-cycle self-study instrument to encourage dialogue on this topic. (3/31/08)
- A/E/C Cabinet reviewed COIA governance concepts and forwarded Proposal No. 2006-16 for membership consideration. The proposal was defeated. (1/4/08)

e. Academic advising should be connected to and be a part of the university academic units. Primary control over all academic advising should be vested in the institution's chief academic officer.

- Work is continuing with N4A and other academic advising units to develop best practices document.
- CAC has included a version of this value as a measurable standard for third cycle of athletics certification. (See MS OP 2.2 #10.)

f. Institutions should examine the compliance area to determine if that area may benefit from a structural change. Consideration should be given to having a compliance director report directly to the president or an administrative officer who reports to the president.

- The OMG recommended the development of an instrument that presidents could use to reflect on issues pertaining to integration. The staff is currently developing a draft instrument to assist presidents and is seeking assistance from the athletics certification team. (7/08)

g. Institutions should ensure that compliance personnel outside the athletics department, such as the registrar, admissions officers and financial aid, always maintain their autonomy from athletics.

- The OMG recommended the development of an instrument that presidents could use to reflect on issues pertaining to integration. The staff is currently developing a draft instrument to assist presidents and is seeking assistance from the athletic certification team. (7/08)
- CAC will maintain current measurable standard for third cycle of athletics certification related to this value. (See MS OP 1.2 #4 and 5.)

h. Steps should be taken to foster integration in the admissions process. Specifically, campus administration and faculty senates should consider developing criteria for special admissions of scholarship athletes. As part of this process, a maximum annual number of such special admissions for athletics should be established, either for all sports programs or for individual teams.

- The OMG asked the A/E/C Cabinet to seek to establish a data driven definition of “at risk”.
- The OMG stressed the importance of gathering data on the academic profile of incoming student-athletes in an effort to identify “at risk” students.
- A working group chaired by Dr. Sidney McPhee has begun its examination, meeting in February and June 2008. (7/08)

- The OMG was encouraged by the progress to-date but recommended the group refrain from using the term "at risk". (7/08)
- The Committee on Athletics Certification, as part of its examination process, should review institutional policies regarding admissions. Specifically, the OMG suggested that presidents and chancellors should not have authority to admit students as a matter of institutional policy. (7/08)

i. There must be concrete and substantive programs in place to monitor and assist those "special admits."

- CAC has included a version of this value as a measurable standard for third cycle of athletics certification. (See MS OP 2.1 #4 and 5.)
- The OMG recommended that institutions evaluate the levels of academic and life skills support provided to "at risk" student-athletes.
- The OMG also asked the A/E/C Cabinet to seek to develop an assessment tool for life skills programs and to develop "best practices" regarding special admits.
- A working group chaired by Dr. Sidney McPhee has begun its examination, meeting in February and June 2008. (7/08)
- The OMG was encouraged by the progress to-date but recommended the group refrain from using the term "at risk". (7/08)

j. Campus athletics boards should receive information on all scholarship-athlete "special admits."

- The OMG asked the A/E/C Cabinet to develop "best practices" regarding special admits.
- A working group chaired by Dr. Sidney McPhee has begun its examination, meeting in February and June 2008. (7/08)
- The OMG was encouraged by the progress to-date, but recommended the group refrain from using the term "at risk". (7/08)

k. Where appropriate, consideration should be given to value-based budgeting.

- The OMG recommended the development of an instrument that presidents could use to reflect on issues pertaining to integration. The staff is currently developing a draft instrument to assist presidents in seeking assistance from the athletics certification team. (7/08)

l. Institutions must ensure that athletics is richly integrated with the rest of the campus and that athletics serves the educational mission of the institution. Presidents must provide bold and creative leadership to further the collegiate model on their respective campuses and be willing to make decisions that will unite the campus community behind a fully integrated athletics program.

- The OMG recommended the development of an instrument that presidents could use to reflect on issues pertaining to integration.
- The NCAA is planning a Student-Athlete Development Summit, including representatives from campus. (7/08)
- The staff is currently developing a draft instrument to assist presidents in seeking assistance from the athletics certification team. (7/08)

m. Institutional education for athletics booster clubs should be reinforced to make it abundantly clear that improper acts by such individuals or clubs will not be tolerated. That information should explain limitations applicable to such individuals and clubs under NCAA rules.

- CAC has strengthened measurable standards regarding rules education for the third cycle of athletics certification. (See MS OP 1.2 MS #9.)

FISCAL POLICY

a. The Task Force recommends that the self-sufficiency clause in the Division I philosophy statement be eliminated.

- Completed.

b. Require a fiscal-impact statement detailing the cost incurred by institutions to comply with any proposed NCAA legislation as a way to prevent unintended budget consequences.

- Completed.

c. Adopt clear and consistent definitions of the various categories of revenues and expenditures to help create clarity so that decision-making based on comparative data can be greatly improved.

- Campus business officers, athletics business officers and accounting audit firms have partnered to develop improved definitions. An advisory committee has been formed to monitor and modify financial data definitions on an annual basis.
- The Advisory Committee met in September and refined some category definitions. The committee met to develop allocation methods for the full committee's consideration. (12/4/07)
- The Advisory Committee received feedback from various stakeholders in its efforts to improve the definitions. (3/31/08)

d. All Division I institutions shall be required to submit operating and capital financial data annually as part of the requirement for NCAA membership. Some of the information will require access to data maintained outside of the athletics department, which means institutions must engage institutional research, the university controller, human resources or other university departments to help with the report or with the operating allocations required as part of the reporting.

- Legislation to be drafted for this cycle.

e. Financial data related to athletics departments and programs shall be collected in a timely manner using uniform and common definitions. In this light, dashboard indicators will be created to enable presidents and chancellors to track financial trends and aid in decision making by providing simple comparisons. Dashboard indicators are a work in progress and will evolve and improve over time.

- The OMG asked that the dissemination include a roll-out plan, whereby institutions receive notice and education materials.
- In September 2007, the Advisory Committee considered input from a pilot group. The indicators were redesigned in the winter of 2007-08. (12/5/07)
- The pilot group, including the Division I Board of Directors, received the second version of the dashboard software and has provided additional feedback. Final modifications, based on the feedback, are being programmed for the Spring 2008 release. (3/31/08)
- CAC has approved a measurable standard for the third cycle of athletics certification that requires an annual review of the dashboard indicators by the president/chancellor and his/her designees. (See OP 1.1 MS #7.) (5/30/08)
- The Division I Board of Directors adopted a resolution in support of the program. (7/08)

f. The Task Force recommends the following reporting process: The value of endowments at fiscal year-end, dedicated to the sole support of athletics, will be reported along with

the present value of all pledges that support athletics. Athletics departments also will report their ending-year fund balance.

g. The Task Force recommends the following reporting process: Capital expenditures shall be reported in the aggregate for athletics facilities. Specific categories include capitalized additions and deletions to facilities during the current reporting period, total estimated book value of athletically related plant and equipment, net of depreciation, total annual debt service on athletics and university facilities, and total debt outstanding on athletics and university facilities.

- Data have been collected; however, because capital expenditure reporting is a new process with new definitions, several institutions have not submitted consistent data.
- Staff sent the last three years of financial data to campuses for verification in November and one-half of the institutions revised their numbers to improve consistency. (12/5/07)
- Staff has called several institutions whose data remains inconsistent, however inconsistencies remain. As part of the fiscal year 2008 data request, staff will include instructions to review these data points and once again provide institutions an opportunity to modify. (3/31/08)

h. The Task Force recommends an annual salary and benefits survey shall be conducted for athletics positions. Collected data must include base salary, bonuses endorsements, media fees, camp income, deferred income and other income contractually guaranteed by the institution. The abstracted data from the survey will be made available to each institution in a confidential manner that campus decision-makers can access on a real-time basis.

- Completed. In the fall of 2006, all Division I institutions were provided an opportunity to participate in a salary survey process.

i. The Division I Board of Directors shall monitor and conduct a regular analysis of the trends in intercollegiate athletics financing and provide those data to appropriate constituencies.

- Financial data, using the new definitions and categories are being collected. Several years of data (three to four years) are needed before meaningful analysis can occur.

j. An independent third party will use "agreed-upon procedures" to verify the accuracy and completeness of the data before submission to the university president and the NCAA.

- Completed. Procedures developed in cooperation with NACUBO, CABMA and public accounting firms.

k. Presidents must use these financial data to align athletics budgeting with institutional mission to strengthen the enterprise and be willing to exert leadership and be actively engaged as champions of fiscal responsibility.

- The OMG recommended the development of an instrument that presidents could use to reflect on issues pertaining to integration.

l. Solicit recommendations from appropriate higher-education associations on best fiscal practices. In addition, the NCAA and other appropriate associations should monitor continuously and periodically refine the financial reporting definitions to adhere to current practices.

- A Best Practices Advisory Committee has been established and its charge developed.
- The Advisory Committee met on November 28, 2007, and developed a series of categories and topics for the development of best practices or resource center. The next steps include finding authors and developing a website. (12/5/07)
- The selection of subject matter experts will follow the rollout of the dashboard indicators and the implementation of the athletics business officer professional development programs. (3/31/08)

m. Establish an educational training program in collaboration with the College Athletics Business Managers Association and the National Association of College and University Business Officers for athletics administrators to strengthen their professional development and financial management skills and to enhance the overall financial management of the athletics programs.

- The Professional Development Advisory Committee met in August 2007 for the first time. A follow-up curriculum decision session was held on October 30-31, 2007. (11/1/07)
- The Advisory Committee developed a learning design plan. This plan will drive a more detailed document that will identify subject matter experts to lead the topic areas. (12/4/07)
- A pilot athletics business officer professional development program will be offered to a select group of CABMA members at their summer convention. Based on their feedback, the program will be finalized for a January 09 release. (3/31/08)

PRESIDENTIAL LEADERSHIP

a. Programming about the proper oversight role of governing board members with regard to athletics should be presented to all new board members as an integral part of their overall orientation. A concise outline of the president's and board members' roles must be covered in orientation and educational sessions, possibly conducted by the NCAA, the AGB, the American Council on Education, the American Association of State Colleges and Universities or the National Association of System Heads.

- Programming regarding the presidents' and board members' roles in intercollegiate athletics has been discussed by a joint working group comprised of staff from the NCAA and AGB. A Memorandum of Agreement (MOA) has been developed by AGB that outlines the collaborative roles for the NCAA and AGB in terms of educational programs. (1/4/08)
- The NCAA and AGB are involved in joint programming. (7/08)

b. The NCAA and the AGB should work together to develop appropriate curriculum, which could be added to the AGB's existing board education services to make it more robust.

- Programming regarding the presidents' and board members' roles in intercollegiate athletics has been discussed by a joint NCAA/AGB working group. A Memorandum of Agreement (MOA) was developed by AGB that outlined the collaborative roles for the NCAA and AGB in terms of educational programs. (1/4/08)
- The NCAA and AGB are involved in joint programming. (7/08)
- The OMG suggested that programming make a distinction between the role of system governing boards and institutional governing boards. (7/08)

c. The AGB's existing regional meeting opportunities and relationships with other organizations could further disseminate the message regarding the governing board's appropriate oversight role.

- The OMG supported the recommendations that the AGB could build upon its existing partnerships.
- The AGB has indicated support for this effort. (7/08)

d. The Task Force recommends a re-commitment to the March 2004 AGB statement titled "Statement of Board Responsibilities for Intercollegiate Athletics" – by circulating for sign off, a form attesting that all governing board members received and reviewed the

AGB document and that the responsibility for the administration of the athletics program has been delegated to the president and chancellor of the institution.

- This recommendation has been completed and a revised statement was distributed at the 2008 NCAA Convention. (3/18/08)
- The statement has been shared with the 31 multisport conferences. (7/08)
- The OMG recommended the institutions be encouraged to develop an annual review procedure. (7/08)

e. Presidents and boards should have well-documented institutional governance policies regarding the administration and oversight of athletics.

- CAC has included as a measurable standard for third cycle of athletics certification. (See MS OP 1.1 #2 and 3.)
- CAC will work with AGB to develop sample policies and educational documents this summer. (3/31/08)

f. Presidents have a leadership responsibility to exert their authority over athletics clubs or supporters of athletics interests.

- CAC has determined this recommendation is already addressed as part of the athletic certification process. (8/01/07)

DIVERSITY

a. Presidents are obligated to reach out to increase the participation of those gender, racial, ethnic and cultural groups that have historically been underrepresented among students, faculty and staff. Presidents must establish the appropriate sense of urgency and importance regarding this issue.

- Legislation is being discussed that would require every NCAA member to annually submit to the MOIC documentation signed by the president and athletics director verifying that all athletics department hires were made in compliance with institutional employment policies and practices.

b. Diversity and inclusion goals and objectives should be measurable and be accompanied by appropriate alignment of athletics department policies and procedures to enhance those goals. There must be accountability.

- CAC has included as a program area for analysis for the third cycle of athletics certification. (8/1/07)
- A Best Practices Hiring brochure was unveiled at the NCAA Convention Division I Issues Forum.
- Legislation is being discussed that would require every NCAA member to annually submit to the MOIC documentation signed by the president and athletics director verifying that all athletics department hires were made in compliance with institutional employment policies and practices.

c. Sensitivity to and understanding of the value of diversity should be a factor that is considered in all hiring decisions. Efforts must be made to ensure appropriate diversity at the decision-making levels in the hiring process.

- CAC has included as a program area for analysis for the third cycle of athletics certification. (8/1/07)
- Diversity in Athletics Award recognizes athletics departments for their overall diversity strategy.
- A Best Practices Hiring brochure was unveiled at the NCAA Convention Division I Issues Forum.
- The OMG noted that while many institutions already have funding systems in place regarding identifying minority candidates, focus should be drawn to the actual hiring process. (7/08)

d. Recruiting networks should be expanded beyond current social networks to embrace a more diverse populace.

- A Best Practices Hiring brochure was unveiled at the NCAA Convention Division I Issues Forum.
- As part of the Expert Football Coaches Forum, a number of representatives from the membership are invited (conference commissioners, athletics directors, executives at affiliated organizations, etc.) to either present or network with some of the future head coaches, thereby expanding networks.
- Diversity in Athletics Award recognizes athletics departments for their overall diversity strategy.

e. Athletics department hiring must function under the same standards and measures of accountability as other university constituent groups.

- CAC has included as a program area for analysis for the third cycle of athletics certification. (8/1/07)
- Diversity in Athletics Award recognizes athletics departments for their overall diversity strategy.
- Legislation is being discussed that would require every NCAA member to annually submit to the MOIC documentation signed by the president and athletics director verifying that all athletics department hires were made in compliance with institutional employment policies and practices.

f. To influence substantive change in this area, it is imperative that institutions establish a performance-based system of accountability with measures for diversity that permeate all areas within the athletics department and others to which athletics reports.

STUDENT-ATHLETE WELL BEING

a. The student athlete "experience" is not simply a matter of providing scholarship dollars to meet "educational" costs; rather, it is how institutions support student-athletes' educational and athletics pursuits so that their experience compares favorably to those of other students. Assimilation of student-athletes into campus life, an examination of financial aid practices, methods of ensuring student-athlete academic success, a discussion of health and safety issues, and an assessment of competition opportunities and possible enhancements. The appropriate ongoing examination is one that includes what the student-athlete experience looks like when the institution is involved in providing these forms of additional support.

- CAC has revised the measurable standards for third cycle of athletics certification in area of student-athlete well-being. (See MS OP 3.3.)
- C/C Cabinet began a review process during February 2008 meeting and will continue their review during the June 2008 meeting. (3/18/08)
- The Championships/Competition Cabinet has begun to examine this issue. (6/08)
- The OMG encouraged the new cabinet to continue this examination. (7/08)

b. NCAA should continue to support and monitor the academic reforms underway, and study Academic Performance Program data to assess whether changes and enhancements are warranted to further improve academic performance.

- The Board of Directors continues to receive updates from the Committee on Academic Performance.

c. The Division I governance structure should establish a data-based definition of "at risk" when comparing prospects' academic records that allows for local differences among the diverse Division I membership.

- The OMG recommended that the A/E/C Cabinet should seek to establish a data driven definition of "at risk," and a working group chaired by Dr. Sidney McPhee has begun its examination of this issue meeting in February and June 2008. (7/08)
- The OMG was encouraged by the progress to-date but recommended the group refrain from using the term "at risk". (7/08)

d. The goal of defining "at risk" is for each institution to be able to analyze the academic success of its student-athlete population and identify the profile of incoming prospects that appear to be at risk of not progressing toward and obtaining a degree from that institution.

- The OMG stressed the importance of gathering data on the academic profile of incoming student-athletes and suggested that each institution analyze the academic success of student-athletes to identify a profile of students at risk not to graduate.
- The OMG was encouraged by the progress to-date but recommended the group reframe from using the term "at risk". (7/08)
- The OMG also noted the importance of institutions being able to compare the academic profile of student-athletes with the general student population.
- A working group chaired by Dr. Sidney McPhee began its examination of this issue in February and meets again in June. (5/30/08)

e. Once that profile is established, the institution should evaluate the level of academic and life-skills support provided to these student-athletes and determine if changes or enhancements are necessary.

f. In financial aid practices, policy must be reviewed to assess whether student-athletes have adequate opportunities to receive non-athletics-based financial aid. Additionally, the gap

(if any) between an athletics scholarship and the full cost of attendance, given additional sources of financial support, should be examined to determine whether any unmet financial need is being appropriately met through athletics or institutional sources.

- The new Awards, Benefits, and Financial Aid Cabinet is expecting to examine this issue.

g. Consideration should be given to strengthening financial aid legislation requiring a hearing for canceled or reduced athletics aid, and adjusting the timing of the athletics-aid renewal process.

- The Financial Aid Subcommittee of the A/E/C Cabinet began its review of this issue at its September 2007 meeting and continued its review during its June 2008 meeting. (3/31/08) The new Awards, Benefits and Financial Aid Cabinet will be asked to develop best practices in this area. (7/08)

h. The governance structure also should consider whether athletics aid should be awarded for more than one year or automatically renewed from year to year, based on established criteria.

- The Financial Aid Subcommittee of the A/E/C Cabinet began its review of this issue at its September 2007 meeting and this topic will transition to the new Awards, Benefits and Financial Aid Cabinet. (3/18/08)

i. The governance structure should consider whether the current head-count and equivalency allocations are appropriate in each sport.

- The Financial Aid Subcommittee of the A/E/C Cabinet began a review during its February 2008 meeting of WBB scholarship limits and will continue to review at its June 2008 meeting. The Women's Basketball Issues Committee does not support a change to the limits. (3/31/08)
- The Financial Aid Subcommittee did not support a modification to the women's basketball scholarship limits, but asked the new Awards, Benefits and Financial Aid Cabinet to examine scholarship issues in general. (7/08)

j. The governance structure should review whether current time limits (the "20-hour rule) allow student-athletes to be integrated into the general student body.

- Playing and Practice Seasons Subcommittee received an update on SAAC activities related to this issue. SAAC is contemplating a continuation of its review on the issue. (3/19/08)
- The OMG commended the SAAC for its leadership role on this issue and agreed education was the best approach. (7/08)

k. The structure should conduct an assessment of competition opportunities and whether there is a need for possible enhancements. This discussion should focus specifically on the unintended consequences resulting from concerns on maintaining competitive balance.

- C/C Cabinet began the review process during February 2008 meeting and continued their review during the June 2008 meeting. (3/18/08)
- The recommendation was to incorporate the theme into the new cabinet's discussion. (7/08)
- The recommendation was to incorporate the theme into the new cabinet's discussions. (7/08)

l. The structure should consider legislation to provide for a fifth season of eligibility. Additionally, the structure should consider whether five years should be the standard eligibility term, or whether student-athletes would only be able to "earn" the fifth year based on meeting certain academic criteria, such as a specific grade-point average.

- The Football Issues Committee has tabled this issue until the Football Academic Working Group has reviewed the impact of 5th–year students on a team's APR as part of its overall study of the football APR. (6/4/08)

m. The structure should consider whether student-athletes in all sports should be permitted to transfer after their first academic year and be immediately eligible, but require a year in residence for transfers after the beginning of their second year of enrollment and thereafter.

- There is a group examining transfer issues and its work will be assigned to the new Academic Cabinet. To date, this specific issue has not been examined. (7/08)

COMMERCIALISM

a. **Efforts should be made to ensure that financial decisions for athletics mirror those of the university. It is incumbent upon universities to develop revenues from as many sources as possible, including those that may be categorized as "commercial" sources. Presidents must address how to appropriately limit commercialism yet manage big revenue sports. Commercial interests that align themselves well with the institutional mission have a place in athletics revenue generation to support enhanced opportunities for student-athletes. A bright-line standard should ensure that limitations on commercialism within the academic enterprise also apply to athletics. Commercialism that conflicts with the university's academic culture, values or mission should not be permitted to enter the athletics environment.**

- The OMG noted the importance of including the faculty voice in any discussion regarding commercialism**.** There is a faculty member serving on the new commercial activity group. (7/08)
- The new commercial activity group is looking to develop principles.

b. **The NCAA is obligated to maximize the revenue from commercial sponsors and to manage those dollars in a manner that follows best business practices and reflects the values and mission of higher education.**

- The OMG recommended that the discussion of commercialism relative to core values occur at the national level and suggested the proposed new Division I Leadership Council is the perfect governance body to engage in this discussion.
- The commercial activity group is looking at this issue. Additionally, the new Division I governance structure and staff have been charged with examining this issue. (7/08)

c. **Given the significant role conferences play in managing the commercial influence within their programs through negotiating television and other sponsorship contracts, conferences should not only set their own standards on acceptable levels of commercialism, but should also be aware of various institutional values and limitations that may exist among their membership.**

- The OMG encouraged conferences to examine their commercial activities relative to conference values and to engage their memberships in conversations on the subject.
- The OMG report has been shared with the 31 multisport conferences. (7/08)

d. It is important to emphasize that intercollegiate athletics must be supported by a solid business plan. Rules relating to commercialism should be consistent and ensure no exploitation of student-athletes. Institutions should clearly articulate those rules.

- The OMG recommended that there be a review of NCAA regulations regarding the use of student-athlete likeness to ensure the regulations are in-line with the Association's core values.
- A new membership group led by presidents has been established to examine issues relative to values and commercial activity. (3/18/08)

THE NCAA CERTIFICATION PROGRAM

- The OMG recommended that efforts be made to alert presidents to important charges to the Athletics Certification Program.

a. Reinstitute the fiscal-integrity review, including operating and capital-expenditure data, into a fiscal-integrity section of the NCAA athletics certification process.

- The OMG clarified that this recommendation would call for more of a systems review than an analysis of data.
- The OMG encouraged the CAC to seek to identify ways to provide presidents with additional leadership leverage points. (This comment applies to this entire section.)
- CAC approved two measurable standards related to fiscal issues for the third cycle of athletics certification at it April 2008 meeting. (See OP 1.1 MS #6 and 7.) (5/30/08)

b. Action should be given to requiring chancellors and presidents to conduct an internal fiscal-integrity review every five years, both as part of the 10-year NCAA certification and mid-way between required reviews.

- CAC approved two measurable standards related to fiscal issues for the third cycle of athletics certification at it April 2008 meeting. As noted in a previous section, institutions will be required to annually review the dashboard indicators. (See OP 1.1 MS #6 and 7.) (5/30/08)

c. The first operating principle in the athletics certification program, institutional control and presidential authority must be strengthened by requiring the Committee on Athletic

certification's final decision to be "with conditions," at best, if there are instances of a lack of presidential authority, including board-member interference.

- The OMG suggested it may be more helpful for the athletic certification and peer review processes to serve more of a consultative role, whereby presidents challenged from a leadership standpoint are offered assistance rather than subject to their institution receiving a final certification decision "with conditions."
- The CAC determined that additional presidents serving on the committee will serve in that role when needed. (8/1/07)
- The OMG encouraged the Committee on Athletics Certification to reconsider whether institutions should be "certified with conditions" when there is evidence of a president's leadership role being challenged.

d. The pool of presidents who serve as peer reviewers should be expanded, both by encouraging sitting presidents to chair peer-review teams and by identifying retired presidents, as they may have more time to serve and feel they are in a better position to provide candid and objective evaluations.

- Completed. Recent change in policy makes sure that more presidents are serving. Every visit since fall 2007 has been chaired by an active or retired president and all visits in fall 2008 will also be chaired by an active or retired president. Conferences were contacted to encourage additional presidential involvement. (8/1/07)

e. More presidents should serve on the athletics certification committee. Current committee roster requirements call for only one president to serve. The Task Force also recommends a second pool of presidents, drawn largely from those who are retired to assist in such reviews.

- Completed. Beginning September 1, 2007, the CAC has four presidents on the committee.

f. Peer reviews in the certification process should require more interaction between the review team and the governing board.

- Completed. While this presently occurs in some instances, all visits in the third cycle (beginning with visits in fall 2009) will involve interaction between at least one member of the governing board and the peer-review team.

g. Certification should include a requirement that institutions provide material containing rules education and policies and procedures to organized athletics groups and representatives of the institution's athletics interests.

- Institutions are currently required to demonstrate the provision of rules education to booster groups. As noted previously, the CAC has strengthened this requirement for the third cycle of athletics certification. (See MS 1.2 #9)
- CAC determined that this recommendation is already addressed through the athletic certification process. (8/1/07)

Report of the NCAA Division I Board of Directors meeting
August 7, 2008

Section One

Actions taken on items considered only by the
Board of Directors.

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1. **Opening remarks.**

BD ACTION: Heard from the chair as he shared his thoughts as to five issues impacting intercollegiate athletics today, which are:

- The impact of the ongoing academic reform movement, and the need to stay the course to help effectuate meaningful change.
- The trend of some institutions to rely solely on the NCAA to establish academic policy rather than assuming some of the responsibility at an institutional level.
- The fact financial pressures cannot and should not influence values.
- Early departures from high school without knowing the full implications on students of this action.
- Negative fan behavior and the impact on the collegiate model.

2. **Minutes of the April 24 Board of Directors meeting**. [Reference BD Supplement No. 1]

BD ACTION: Approved the minutes as distributed. (Unanimous Voice Vote.)

3. **Report of April 24 meeting of the NCAA Executive Committee.** [Reference BD Supplement No. 2]

BD ACTION: Received a brief update on actions from the April 24, 2008, Executive Committee meeting along with a preview of that group's August 7, 2008, meeting. As part of the update, learned that the committee would be reviewing a conflict of interest policy and also would be disbanding the Executive Committee Working Group on Life and Work Balance Issues, as that group has completed its work in overseeing implementation of a number of new initiatives in the area of life and work balance.

4. **NCAA president's report.**

BD ACTIONS: Received a report from the NCAA President and discussed a variety of issues pertaining to the Division I agenda.

a. Three-to-five Year National Office Plan.

(1) Heard from the NCAA president as he reviewed the three controlling goals that are directing National Office strategies. These controlling goals are:

(a) Complete this cycle of academic reform;

(b) Subserve all business, corporate and championship efforts and decisions, especially those concerning basketball, to positioning for negotiation new media contracts, and

(c) Focus on issues related to student-athletes and athletics personal well-being.

(2) Requested time at the October 2008 meeting to learn more about the constantly evolving financial challenges and opportunities facing intercollegiate athletics to gain a better understanding of the total context of market driven realities.

(3) Encouraged the Board to review the NCAA Strategic Plan and to keep the themes identified in the plan, along with the three-controlling goals, at the forefront of the Board's discussions.

[Note: The staff will send the members a copy of the NCAA Strategic Plan.]

b. Sportsmanship and problem with negative fan behavior.

(1) Discussed the problem with negative fan behavior and its impact on intercollegiate athletics, and explored what role the NCAA should have (if any) in trying to address this issue.

(2) Requested an opportunity to review research findings regarding fan behavior including a review of current conference regulations regarding this issue; and

(3) Agreed that a subgroup of the Board should be named to help define the issues associated with negative fan behavior and identify the NCAA's role in advance of the Board's October meeting.

c. Fantasy Sports Leagues.

(1) Received an update regarding a recent ruling by the 8th Circuit Federal Court of Appeals in which the court applied Missouri State Law to professional fantasy leagues, which has led fantasy sports games distributors to conclude that

offering a college football fantasy game that includes names and game statistics of college student-athletes would be consistent with the ruling and discussed the fact that the court ruling is in conflict with NCAA bylaws.

(2) Were informed that a July 2008 NCAA rules interpretation states the use of a student-athlete's name in connection with a fantasy sports game, even when there is not an entry fee or prize associated, is a violation of NCAA rules; and that the Association will send a "Cease and Desist" letter on behalf of its members and student-athletes to any distributor who engages in such activities.

(3) Noted that this scenario presents a difficult factual situation, that will have to be monitored, and that ultimately the Board may want to address whether fantasy sports games that adhere to certain parameters necessarily violate the principles of amateurism.

d. Youth Basketball.

- Received an update on the NCAA's initiative with the NBA and other basketball stakeholders, to provide more structure to youth basketball and the precollegiate environment, and learned that they are in the process of seeking to identify an executive director and media partner.

e. Committee on Infractions and Infractions Appeals Committee

(1) Were informed that the staff had a productive meeting with the Infractions Appeals Committee, as that committee seeks to change its policies in keeping with recent legislative changes and that the chairs of both the Committee on Infractions and the Infractions Appeals Committee will appear before the Board at its October meeting to comment on its new policies and provide a status report;

(2) Learned that consistent with the Board's discussion in April, both committees are beginning to discuss accountability measures; and

(3) Made the following appointments: (Unanimous Voice Vote.)

(a) Committee on Infractions:

- Britton Banowsky – Conference USA.
- John Black – Public member.
- Jacqueline Campbell – Atlantic 10 Conference.
- Melissa Conboy – University of Notre Dame, Big East Conference.

(b) Infractions Appeals Committee:

- Jack Friedenthal – Professor of Law and former Dean at Georg Washington University.

5. Litigation update.

BD ACTION: Received a report from the NCAA general counsel regarding current cases involving the Association.

6. Governmental relations report. [Reference BD Supplement No. 4]

BD ACTION: Received a report and took no action.

7. Report of the Division I Presidential Advisory Group. [Reference BD Supplement No. 5] Addendum

BD ACTION: Received a report from the Division I Presidential Advisory Group's August 4, 2008, conference call and heard comments from the group's chair throughout the meeting regarding pertinent points raised by the group during the call.

8. Overview of the preliminary efforts of the Basketball Academic Enhancement Group. [Reference BD Supplement No. 6]

BD ACTIONS:

a. Heard that the Men's Basketball Academic Enhancement Group, which was charged by the Board to think creatively with a focus on academics, to identify ways to improve the academic performance, and ultimately the graduation rates, of Division I men's basketball student-athletes, is scheduled to meet on August 8, 2008, to review membership feedback and continue its work.

b. Were informed that the group is at a difficult juncture in its work as the "ideal is meeting the practical" but discussed the importance of keeping the group's focus on improving academic performance as it is critical that academic performance of men's basketball student-athletes is improved.

c. Learned that it is anticipated that the group will present recommendations to the Board at either its January meeting, and that once received by the Board, there will then be an opportunity for the membership and governance substructure to consider before coming back to the Board for final action.

9. Overvieof the preliminary efforts of the Football Academic Enhancement Group. [Reference BD Supplement No. 7] Roster

BD ACTIONS:

a. Were informed that the Football Academic Enhancement Group, which is charged with examining the academic performance of football student-athletes identifying strategies for improvement, has had its first in-person meeting, but is currently doing most of its work on subcommittees divided by subdivision as follows:

Football Bowl Subdivision/Football Championship Subdivision

- Eligibility
- Retention
- Finances

b. Learned that the group hopes to submit a status report to the Board in October 2008 and a final report to the Board in April 2009, for review and comment by the governance substructure and membership to follow.

10. Report of the Committee on Academic Performance (CAP). [Reference BD Supplement No. 8.]

BD ACTIONS:

a. Committee on Academic Performance composition and appointments.

(1) Receive a report from the chair of the Committee on Academic Performance regarding that group's July 2008 meeting and learned that the committee anticipates an increase in the number of academic performance program penalties appeals as more severe sanctions are implemented.

(2) Used its emergency authority to adopt a number of recommended changes to the committee's composition in preparation for the 2008-09 APP waiver season: (Unanimous Voice Vote – Effective Immediately.)

Proposal No. 2008-8 Academic Performance Program -- Committee on Academic Performance -- Composition and Term of Office of Chair. Intent: To increase the composition of the NCAA Division I Committee on Academic Performance from 11 to 15 members and to specify that the committee shall include a minimum of two chancellors or presidents; further, to specify that after the chair has served two full terms, the NCAA Division I Board of Directors may extend his or her term at two year intervals.

Pursuant to this legislative change:

(a) Extended the term of the current chair, President Walter Harrison, University of Hartford, for an additional two years, to expire in September 2011.

(b) Appointed current member President Melvin Johnson, Tennessee State University, as vice chair of the committee.

(c) Appointed the following ad hoc members to the committee as voting members with appropriate staggered terms:

- Tom Burnett; Commissioner, Southland Conference;
- John Morris; Senior Associate Director of Athletics, University of Washington; and
- Greg Sankey; Associate Commissioner, Southeastern Conference.

(d) Directed the NCAA Division I Administration Cabinet to appoint a faculty athletics representative or provost to the committee to fill the remaining vacancy.

b. APP Policies and Procedures.

- Approved, in principle, the APP policies and procedures, which include the procedures for Occasion-Three and Four Historical Penalty Waivers and Appeals, but asked the committee, the NCAA general counsel's office and selected Board members to further review, and possibly edit, the language setting forth the specific standard of review for such appeals, to ensure the language is crafted to accurately reflect the intention of the CAP and the Board.

c. APP Penalties following coaches.

(1) Learned that while the committee discussed the concept of APP penalties following coaches and the possible development of an academic coaches' rate to be used to track the academic success of individual coaches, did not support the concept due to the administrative and procedural complexities involved.

(2) Appreciated the CAP's perspective and work on this issue, but indicated a level of interest in further exploring this issue mindful that any discussion would need to include the benefit of a legal analysis; and

(3) Suggested the Board establish a subgroup of Board members, working with members of CAP and general counsel to further examine the issue of whether an academic process rate can be assigned to coaches.

(4) Supported the concept of permitting access to archived NCAA Division I Academic Progress Rates (including coaches' names) via the NCAA Web site.

d. Academic Performance Programs Supplemental Support Fund.

- Received an update on the Division I Academic Performance Program Supplemental Support Fund Annual Report and learned that 31 of the 36 eligible institutions applied for the grants and received funds totaling $1,729,212 committed in support of initiatives designed to foster student-athlete academic success at limited resource institutions.

11. Update on the Division I governance transition process and report of the August 6, 2008, Division I Leadership Council. [Reference BD Supplement No. 9] REPORT

BD ACTIONS:

a. Received a brief overview of the new Division I governance structure and were reminded that the objective behind, which are, in part:

- Strengthen the foundation for the Board's policy setting role;
- Ensure high quality input/advise from the governance substructure; and
- Reduce/eliminate material and the legislative load on the Board.

b. Enhance the level of communication about governance issues and coordination between governance bodies.

c. Were reminded that the new Leadership Council should serve as a help-mate to the Board, as it is anticipated that the Council will:

- Serve as the primary advisory group to the Board on strategic and policy issues;
- Provide background information, advice and counsel to the Board on legislative and nonlegislative matters;
- Receive authority from the Board and have agendas that mirror the Board of Directors; and
- Have a national focus rather than a local/conference one.

d. Received a report from the chair of the Leadership Council regarding that group's inaugural meeting and heard that the Council is excited for the opportunity to assist the Board in leading Division I, and is eager to start working on the issues assigned to it by the Board, which include developing initiatives that will enhance the level of diversity in the Division I governance structure; offering recommendations concerning Division I membership standards; building on the work of the Task Force on Commercial Activity in Intercollegiate Athletics and considering appropriate strategies to consider certain Division I amateurism issues.

e. Asked the Leadership Council, at some point, to possibly examine the implications associated with early recruitment and enrollment.

12. Legislative Issues.

a. Membership override request regarding Proposal No. 2007-30-C. [Reference BD Supplement No. 10] Supplement No. 10B & 10C

Proposal No. 2007-30-C – Recruiting -- Contacts and Evaluations -- Men's Basketball Evaluations -- April Contact Period. Intent: To specify that evaluations of live athletics activities during the April contact period shall be limited to regularly scheduled high school, preparatory school and two-year college contests/tournaments and practices; and regular scholastic activities involving prospective student-athletes enrolled only at the institution at which the regular scholastic activities occur; further, to amend the April contact period to begin at noon on the first Thursday following the Men's Basketball Championship and continue through seven days following the initial date for the spring signing of the National Letter of Intent.

BD ACTIONS:

(1) Were informed that 62 member institutions submitted requests to override the Board of Directors' adoption at its April 24, 2008, meeting of Proposal No. 2007-30-C;

(2) Discussed the proposal and its earlier action, noting concerns about the proliferation of nonscholastic events conducted during the April contact period and the resulting consequences to the well being of the prospective student-athletes who participate in these events;

(3) Were informed that both the Presidential Advisory Group and the Leadership Council recommended that the Board sustain its earlier action in adopting the proposal.

(4) Determined to sustain its earlier adoption of Proposal No. 2007-30-C, accordingly, the override request will be subject to a membership vote at the 2009 NCAA Convention. (Unanimous Voice Vote.)

[NOTE: At least a 5/8 majority vote of individual active members present including conference members in the governance structure, and voting shall be required to override the legislative action taken by the Board of Directors. The vote shall be based on the principal of one institution, one vote and the vote shall be taken by roll call.]

b. Suggested compromise with regard to Proposal No. 2007-109, which was tabled by the Board. [Reference BD Supplement No. 11]

Proposal No. 2007-109 Executive Regulations -- NCAA Properties and Marketing Restrictions -- Exception for Institutions Participating in NCAA Championship Events -- Number of and Access of Videographers and Photographer. Intent: To permit an institution to designate two videographers and one photographer to be present at NCAA championship events involving the institution's teams; further to specify that one videographer shall be permitted access to the area designated for media photographers and shall be limited to capturing video images for nonscouting purposes and to specify that one videographer and the photographer shall have access to the institution's team locker room prior to, during and after the contest, subject to institutional discretion.

(1) Learned that since the April 2008 Board meeting, the staff and central stakeholders to the legislative proposal have worked to identify a potential solution, which includes:

- Revisions to the current championship policies regarding videography to clearly outline the intent and usage guidelines, which includes field level access (including Division I Men's Basketball Championships); penalties for commercial use by an institution of such video; and an attempt to

assure cost controls toward noncommercial video needs of the membership; and

(2) Agreed to leave the proposal on the table until the October Board meeting to allow time to communicate the policy revisions to the Division I conferences and to better assess the impact of the revised policies once implemented.

c. Proposed modification to the composition of the Division I Football Issues Committee. [Reference BD Supplement No. 12.] Supplement No. 12B & 12C

(1) Used its emergency authority to adopt Proposal Number: 2008-5 – Committees – Division I Cabinets and Committees – Championships/Sports Management Cabinet – Committees – Football Issues Committee and Football Championship Committee. Intent: To specify that: (a) the Football Championship Committee shall consist of one representative from each conference that is eligible for and applies for an automatic qualification for participation in the Division I Football Championship; (b) if an FCS conference that qualifies for a representative on the Football Issues Committee has a representative on the Football Championship Committee, the same representative shall serve on both committees; (c) the Football Issues Committee shall include one representative from the Football Rules Committee; and (d) the duties of the Football Issues Committee to include postseason bowl licensing responsibilities. (Unanimous Voice Vote.)

(2) Used its emergency authority to adopt Proposal No. 2008-7 – Eligibility – Definitions and Applications – Education-Impacting Disability. Intent: To establish a definition of "education-impacting disability" as a current impairment that has a substantial educational impact on a student's academic performance and requires accommodation; further, to replace all legislative references of "learning disabilities" to "education-impacting disabilities." (Unanimous Voice Vote.)

(3) Used its emergency authority to adopt Proposal Number: PP-2008-9 -- Enforcement Policies and Procedures -- Summary Disposition and Expedited Hearing -- Summary Disposition Election -- Committee on Infractions Review -- Penalties not Approved. Intent: To specify that if the Committee on Infractions accepts the agreed-on findings of the summary disposition process but imposes additional penalties, the institution and/or involved individuals may request an expedited hearing on penalties; further, to specify that the committee shall only consider information relevant to the imposition of penalties during an expedited hearing. (Unanimous Voice Vote.)

(4) **Used its emergency authority to adopt Proposal Number: PP-2008-10 -- Enforcement Policies and Procedures -- Investigative Procedures -- Interview Record -- Access to Recordings and Transcripts -- Summary of Non-Recorded Interview.** Intent: To specify that in order to obtain an interviewee's signature affirming accuracy of a summary of a non-recorded interview, the enforcement staff may provide a copy of the unsigned summary to the interviewee and his or her counsel; further, to specify that after the summary is signed, the interviewee and his or her counsel may receive a signed copy. (Unanimous Voice Vote.)

13. Update on the Division I Task Force on Commercial Activity in Intercollegiate Athletics. [Reference BD Supplement No. 13.] Roster Report

BD ACTIONS:

a. Reviewed the charge of the task force which is to find the balance point between the two extreme positions of unrealistic idealism and crass commercialism and to develop principles that clearly establish this balanced position. These principles must be sufficiently broad-based so that they cover all sports and all commercial activity associated with athletics and not be so abstract that they do not relate to action. Additionally, these principles must reflect the values of higher education and respect that the participants are college students, not paid professional athletes.

b. Learned that the task force, which has had two in-person meetings to-date, hopes to complete its work of developing principles and instructive guidelines over the course of the next few months in order to report to the Board this fall;

c. Were informed that once the Board receives the work of the Task Force, it is anticipated the Leadership Council, will be asked to fill-in the necessary details and address such issues as whether regulations are needed, if so, with regard to what areas and with what degree of consistency; and

d. Noted that given the importance of work, this values-based examination, will require a substantial period of time as the governance structure and membership seek to find a lasting approach.

14. Report from the Oversight and Monitoring Group (OMG). Supplement No. 14, Addendum A & B

BD ACTIONS:

a. Received a status report from the Oversight and Monitoring Group, which was the body charged by the Board with developing suggested strategies for possible consideration of the recommendations identified by the Presidential Task Force on the Future of Division I Intercollegiate Athletics, monitoring consideration of those recommendations; and communicating to the Board regarding consideration of the recommendations.

b. Learned that it appears that the governance structure has truly embraced its charge to examine the initiatives identified by the task force and that of the 62 initiatives identified by the task force, over 50 of them were either completed or are in the process of being addressed by the governance structure or the membership.

c. Determined that the Oversight and Monitoring Group (OMG) has fulfilled its charge and agreed to disband the Division I Oversight and Monitoring Group. (Unanimous Voice Vote.)

d. Noted the good work of both the Presidential Task Force and the Oversight and Monitoring Group in helping to shape the Division I reform agenda and requested that the Leadership Council along with staff assume responsibility for continuing to monitor the progress made on the various task force recommendations.

e. **Agreed to sponsor in to the 2008-09 legislative cycle Proposal No. 2008-09 – NCAA Membership and Championships and Postseason Football – Conditions and Obligations of Membership – Operating and Capital Financial Data Report.** Intent: To specify that an institution shall submit financial data detailing operating revenues, expenses and capital related to its intercollegiate athletics program to the NCAA on an annual basis, as specified, as a condition and obligation of membership and in order to be eligible to enter a team or individual in NCAA championship competition. (Unanimous Voice Vote.)

15. Report of the Executive Committee Subcommittee on Gender and Diversity Issues.

BD ACTION: Did not received a report as there were no Division I issues.

16. Other business.

17. Future meeting dates.

a. October 30, 2008, National Office, Indianapolis, Indiana.

b. January 17, 2009, Washington D.C., held in conjunction with the NCAA Annual Convention.

c. April 30, 2009, National Office, Indianapolis, Indiana.d.August 6, 2009, National Office, Indianapolis, Indiana.

d. August 6, 2009, National Office, Indianapolis, Indiana.

e. October 29, 2009, National Office, Indianapolis, Indiana.

19. Adjournment.

Section Two

Action taken on items considered by the Leadership Council and, if necessary, the Board of Directors on August 6 - 7, 2008

1. **Understanding the new Division I governance structure.** [Reference LDC Supplement No. 1.]

LDC ACTION:

a. Received an overview of the new Division I governance structure to ensure the members had a thorough understanding of the goals and objectives behind restructuring and the importance of the Leadership Council's role in helping the Board of Directors as it seeks to lead Division I; and

b. Learned that the Leadership Council will:

- Serve as the primary advisory group to the Board of strategic and policy issues;
- Provide background information, advice and counsel to the Board on legislative and nonlegislative matters;
- Receive authority from the Board and have agendas that mirror the Board of Directors;
- Suggest concepts for the legislative agenda;
- Have a national focus rather than a local/conference one; and
- Retain much of the former Management Council's jurisdiction, except legislation.

2. **Discussion with NCAA President Myles Brand.**

LDC ACTION:

a. Entered into a conversation with the NCAA President regarding the vitally important role of the Leadership Council as it seeks to think strategically regarding the issues facing Division I and to take a national perspective on behalf of the NCAA; and

b. Were reminded that the Leadership Council must strive to develop a strong relationship with the Board by providing thoroughly developed positions on matters of national concern.

3. Review of three-to-five year national office strategies. [Reference LDC Supplement No. 2.]

LDC ACTION:

a. Received a presentation from the NCAA president in which he reviewed the three controlling goals that should be at the forefront of the Division I governance representatives' thought processes as they seek to develop positions and recommendations. These controlling goals are:

- Complete this cycle of academic reform;
- Subserve all business, corporate and championships efforts and decisions, especially those concerning basketball, to positioning for and negotiating new media contracts; and
- Focus on issues related to student-athletes and athletics personal well-being.

b. Were encouraged to review the NCAA's Strategic Plan in conjunction with consideration of the three controlling goals.

[Note: The staff will send the Leadership Council members a copy of the NCAA's Strategic Plan.]

4. Update regarding Fantasy Sports Leagues.

LDC ACTIONS:

a. Were informed by the NCAA President that a recent ruling by the 8th Circuit Federal Court of Appeals in the case of CSC Distrib. And Mkting. Inc. v. Major League Baseball L.P., in which the court applied Missouri state law to professional fantasy leagues, has led fantasy sports games distributors to conclude that offering a college football fantasy game that includes names and game statistics of college student-athletes would be consistent with the ruling;

b. Were advised that there is an apparent conflict with this ruling and a July 2008 NCAA rules interpretation, which states the use of a student-athlete's name in connection with a fantasy sports game even when there is not an entry fee or prize associated, is a violation of NCAA bylaws; and

c. Learned that a cease and desist letter would be sent by the Association on behalf of its members and student-athletes to any distributor engaged in such activities and that the Board, with the help of the Task Force on Commercial Activities and eventually the

Leadership Council, would be encouraged to address whether fantasy sports games that adhere to certain parameters necessarily violate the principles of amateurism.

5. Discussion regarding the role and purpose of the Leadership Council (i.e., support the Division I Board of Directors and help to identify and manage the agenda for Division I.) [Reference LDC Supplement No. 3.]

a. Flow of Council's work.

LDC ACTIONS:

(1) Learned that the meeting schedule for the new Division I governance structure is based on both the Division I Board of Directors' quarterly schedule and the annual Division I legislative cycle, which begins on July 15 with the legislation submission deadline and concludes with the Board's April meeting; and

(2) Discussed how the Leadership Council should seek to develop its meeting schedule so it can be helpful in identifying issues for the governance substructure's examination, while at the same time, seeking to be responsive to the Division I Board of Directors.

b. Structure and timing of meetings.

LDC ACTIONS:

(1) Agreed that given the number of issues the Council has been asked to examine, that the Leadership Council should meet prior to the meeting already scheduled on January 15 at the NCAA Convention; and

(2) Suggested trying to identify a time near the October Legislative Council and Board of Directors meetings, with the caveat, the meeting should be conducted in the early part of the week to avoid conflicts with travel associated with football games.

[Note: The staff will solicit availability calendars so that a meeting can be scheduled in the fall.]

c. Administrative Committee.

LDC ACTIONS:

(1) Were informed that under the new governance structure, while the formation of subcommittees are precluded unless legislatively prescribed, each governance body is permitted to form an administrative committee to help address the interim actions of the group; and

(2) Noted it might be too early to determine whether the Council would have interim work, although some members opined they felt an administrative committee would assist with the efficient administration of this Council.

d. Vice chair.

LDC ACTIONS:

(1) Learned that pursuant to the new Division I governance structure, each council and cabinet has discretion to appoint a vice chair if it is determined that the assignment of such a position would be helpful; and

(2) Determined that given that it was the council's first meeting and the current chair can serve up to two years, it would be prudent to wait before making a determination as to whether a vice chair is needed.

e. Other issues.

LDC ACTIONS:

(1) Discussed the importance of communication within the new governance structure and having a level of familiarity with the work of the committees that report to it; and

(2) Solicited the names of interested Leadership Council members to serve as liaisons to the following committees:

- Division I Student-Athlete Advisory Committee (1 FBS member and 1 Division I member);
- Minority Interests and Opportunities Committee; and
- Sportsmanship and Ethical Conduct.

[Note: Once the interest surveys have been compiled, liaisons will be selected and the Leadership Council notified.]

6. Review of the functions of the Communications and Coordination Committee. [Reference LDC Supplement No. 4.]

LDC ACTIONS:

a. Learned that as a feature of the new Division I governance structure, a Communications and Coordination Committee has been established, which is charged with helping to enhance the level of communication between Division I governance bodies and the membership so that there is a more cohesive approach to managing the Division I agenda; and

b. Were informed that the committee will convene via conference call before/after the grouping of councils and cabinets meetings to help coordinate the consideration of issues and that this committee's report will be shared with Leadership Council members.

7. Reviewed agenda items identified by the Division I governance structure, including the Division I Board of Directors, for consideration and discussion by the Leadership Council.

LDC ACTION: Were informed that the Division I Board of Directors has identified the following four issues as being appropriate for Leadership Council examination and that over the course of its next few meetings, the Leadership Council will be asked to engage in some hard work to offer recommendations to the membership and Board regarding these important issues.

a. Recommend initiatives that will enhance the level of diversity in the Division I governance structure. [Reference LDC Supplement No. 5.]

LDC ACTION:

(1) Received an overview of the governance subcommittee's efforts to enhance the level of ethnic, gender and positional diversity serving in the Division I governance structure and reviewed the legislative diversity requirements;

(2) Learned that the Board of Directors now plays a keen oversight role in the governance appointment process and has charged the Leadership Council with examining ways to enhance the level of diversity serving within the structure; and

(3) Entered into a preliminary discussion, in which individual members shared ideas to enhance diversity, including:

- Efforts need to focus on broadening the pool from which representatives are selected. There needs to be a focus on developing talent to ready representatives for leadership roles.

- The governance cabinets and the committee structure provides a good opportunity for young professionals to gain experience.

- Conferences may be able to provide assistance by including more and different representatives in their meeting structure.

- The NCAA Convention can serve as a forum to provide development opportunities to young professionals.

- Identifying minority and female professionals for additional exposure to NCAA meetings.

- Increased efforts to discuss employment opportunities in intercollegiate athletics with minority and female student-athletes should be pursued.

- Efforts should be made to learn from successful programs in higher education and elsewhere, as lack of diversity is a societal problem.

- Mentoring efforts, including providing access to reading materials, a dedicated web site and meetings, may be beneficial.

- An assessment of current NCAA professional development programs for females and minorities should be conducted.

[Note: The NCAA Diversity and Inclusion staff will be called upon to assist with this examination. For future discussions the Council asked to see governance service histories by conference.]

b. Update regarding preliminary plans to examine Division I membership standards**.**

LDC ACTION: Learned that as a result of the two-year moratorium in 2000, Division I developed a more detailed educational assessment program and standards to more clearly distinguish football playing institutions among subdivisions, but that the migration to Division I has not slowed down. Accordingly, in August 2007, the Division I Board of Directors established a four-year membership moratorium to take

time to assess and study the impact of this membership migration and develop reasonable philosophical expectations and legislative requirements that should be adhered to by all institutions desiring to transition to or remain in Division I; and

- Were informed that the Leadership Council has been charged with engaging in that study and offering recommendations concerning Division I membership standards.

- Were advised that the chair of the former Membership and Governance Subcommittees of the Management Council and the current chair of the Administrative Cabinet would be called upon to assist in this project.

[Note: Leadership Council members will be sent reading materials regarding current Division I membership standards in advance of the next meeting.]

c. Following review by the Board of Directors, offer recommendations concerning the report of the Task Force on Commercial Activity in Intercollegiate Athletics.

LDC ACTIONS:

(1) Were informed that the Task Force's charge is to develop guiding principles and instructive guidelines that clearly identify the balance point between unrealistic idealism and crass commercialism; and

(2) Learned that it is anticipated the Task Force will seek to complete its charge within the next few months, at which time the Leadership Council, in keeping with the three controlling goals, will be asked to provide additional strategic thinking by possibly addressing such questions as "should there be an attempt to regulate the environment?" and "if so, by whom, and with what level of consistency?"

d. Discuss appropriate strategies to consider certain Division I amateurism issues. [Reference LDC Supplement No. 6.]

LDC ACTIONS:

(1) Received a brief presentation from the vice president for Membership Service regarding the history of Division I amateurism legislation and the standard of review for amateurism cases, which has evolved over time as more international student-athletes have enrolled in Division I institutions; and

(2) Were informed that:

- The new Division I Amateurism Cabinet plans to review amateurism issues, with specific attention given to the definition of a professional team (and how one may become ineligible based on benefits received by a teammate), as well as issues related to actual and necessary expenses.

- The NCAA student-athlete reinstatement staff and the NCAA Division I Committee on Student-Athlete Reinstatement will discuss with the Legislative Council a desire for additional flexibility from the NCAA Division I Management Council directive regarding competition with professionals.

- The Committee on Student-Athlete Reinstatement (ultimately the NCAA Division I Legislative Council) will review and consider implementing more flexible application of Management Council amateurism directives.

8. Identification of additional issues and themes of importance to the Leadership Council.

LDC ACTIONS:

a. Were provided an opportunity to share ideas regarding other issues that Council members would like to see examined by the Leadership Council; and

b. Members shared the following areas for review:

- The issues of ethics in sports and how Division I and the Association as a whole can assist coaches associations and other constituent groups in having meaningful conversations regarding ethics and professionalism.

- A broad examination of time demands on student-athletes based on recent research findings, including consideration of restructuring or eliminating the non-championship segment.

- Hiring practices in intercollegiate athletics and whether there is adequate transparency in the process, consistent with typical hiring practices on campus.

- The need for additional professional development for coaches and the possible need for a coaching certification program whereby coaches receive education on a wide array of issues that are designed to assist coaches in focusing on the overall well-being of student-athletes.

- The problem of early recruitment and commitments.

9. News from the National Office.

a. Review of significant agenda items from the August 7, 2008, Division I Board of Directors meeting. [Reference Supplement No. 7.]

LDC ACTION: Learned that in addition to the items listed on the Leadership Council's agenda, the Board is scheduled to receive a brief overview regarding the preliminary efforts of the Football Academic Enhancement Group, an update from the Oversight and Monitoring Group and a report from the Committee on Academic Performance in which the committee is asking the Board to examine its role in the appellate process for Occasion Three and Four Penalties.

b. Status report on the work of the Men's Basketball Academic Enhancement Working Group. [Reference Supplement No. 8.]

LDC ACTIONS:

(1) Received an update on the ongoing work of the Men's Basketball Academic Enhancement Group, which was charged by the Board to think creatively to identify ways to improve the academic performance, and ultimately the graduation rates, of Division I men's basketball student-athletes;

(2) Heard from staff and members of the group that the basketball community appears committed to seeking to have meaningful, cultural change in the sport, mindful that the Academic Progress Rate is here to stay; and

(3) Learned that the Basketball Academic Enhancement Group will continue its work at its August 8, 2008, meeting, with the goal of providing the Board with a series of recommendations by October 2008, and that once the Board receives these recommendations, the Leadership Council will be asked to offer its guidance regarding the consideration of the recommendations.

c. Update regarding the membership's override request with regard to Proposal No. 2007-30-C. [Reference Supplement No. 9.]

LDC ACTIONS:

(1) Learned that 62 member institutions have submitted override requests regarding the adoption of Proposal No. 2007-30-C, which is intended to prohibit Division I men's basketball coaches from observing "non-scholastic events" during the April contact period;

(2) Were informed that the staff plans to recommend to the Board that it sustain its earlier action in adopting the proposal as the proposal is designed to address concerns about the increase in nonscholastic influences in the sport in the spring and poor academic performance and preparation; and

(3) Voted to recommend to the Division I Board of Directors that it sustain its earlier adoption of Proposal No. 2007-30-C, as the Leadership Council has concerns about the proliferation of nonscholastic events conducted during the April contact period and the resulting consequences to the well being of the prospective students who participate in these events. (Unanimous Voice Vote.)

10. Discussion of appropriate process to evaluate reports from committees that report to the Leadership Council.

LDC ACTION: Mindful that enhanced communication and more coordination between governance groups are key objectives of the Division I governance restructuring, discussed how it wants to receive information from committees that report to the Leadership Council; and noted it hopes to receive succinct reports that highlight salient points.

a. Committee on Women's Athletics. [Reference Supplement No. 10.]

LDC ACTION: Received the report and heard from the chair that the committee plans to broadly examine ways to enhance diversity both at the coaching and administrative levels, which, in turn, should assist the Leadership Council in its examination of ways to enhance diversity in the Division I governance structure.

b. Minority Opportunities and Interests Committee. [Reference Supplement No. 11.]

LDC ACTION: Received the report and learned that the Division I Management Council Administrative Committee declined to sponsor legislation in the 2008-09 legislative cycle to provide that each active member would be responsible for submitting annual data demonstrating that their employment practices are in compliance with their institutional employment practices when filling open positions within their athletics department. [Note: In deciding not to sponsor the legislation, the Administrative Committee suggested that MOIC should be encouraged to work

on the legislative concept over the course of this next year in an attempt to provide more detail and clarity to the recommendation.]

c. Sportsmanship and Ethical Conduct. [Reference Supplement No. 12.]

LDC ACTION: Received the report and took no action.

d. Division I Student-Athlete Advisory Committee. [Reference Supplement No. 13.]

LDC ACTIONS:

(1) Received the report and learned that the Division I SAAC will seek to provide feedback to the working group examining issues surrounding "at risk" student-athletes.

(2) Were invited to send representatives to the Division I Student-Athlete Regional Leadership Conference scheduled for November 7 – 9, 2008, in La Jolla, California.

11. Other business and issues for discussion.

LDC ACTION: Reviewed the draft 2009 NCAA Convention schedule, and learned the Leadership Council is scheduled to meet as follows:

Thursday, January 15

- Joint Leadership Council/Collegiate Commissioners Association (CCA) meeting – 10 – 11:30 a.m..
- Leadership Council/Legislative Council/CCA Luncheon – 11:30 a.m. – 1 p.m..
- Leadership Council meeting – 1 – 3:30 p.m.

Friday, January 16

- Leadership Council/Legislative Council/SAAC breakfast – 8 – 9:30a.m.
- Division I Issues Forum (suggested) 9:30 – 11:30 a.m.
- Leadership Council/Legislative Council/BOD luncheon 11:30 a.m. – 1 p.m.
- Legislative Forum (suggested) 1:30 – 3:30 p.m.

[Note: If there is a membership vote required with regard to the override request on Proposal No. 2007-30-C, it will occur in the Division I Business Session, which will be held at the conclusion of the Division I Legislative Forum.]

12. Adjournment.