

A G E N D A

National Collegiate Athletic Association

Division II Committee on Student-Athlete Reinstatement

James Frank Room

December 9, 2008
1 to 5 p.m.

1. Review flexible student-athlete reinstatements decisions. [Attachment A will be distributed at the meeting.]
2. Review of chancellors' and presidents' letters. [Attachment B]
3. Review guidelines document. [Attachment C]
4. Review of current analysis of use of a semester within 10-semester period of eligibility as it applies to misadvisement. [Attachment D]
5. Consideration of September 9, 1997, Official Interpretation for NCAA Division I and NCAA Bylaw 14.2.4.3.6.3 as it applies to hardship waivers in Divisions II and III. [Attachment E]
6. Division II Bylaw 14.2.5 – medical doctor versus chiropractor. [Attachment F]
7. Clarification of application of Division II Bylaw 30.6.1.3 – redshirt exception.
8. Review of information from full committee agenda.
9. Other business.

**REPORT OF THE
NCAA DIVISION II COMMITTEE ON STUDENT-ATHLETE REINSTATEMENT
December 8-10, 2008, Meeting**

ACTION ITEMS.

1. Legislative Action Item.

a. 2010 NCAA Convention Legislation – NCAA Division II Bylaw 14.2.5.2.3 – Eligibility – Hardship Waiver - Percent Calculation – Transfer Student-Athletes.

- (1) Recommendation. Sponsor legislation for the 2010 NCAA Convention to amend NCAA Bylaw 14.2.5.2.3 (percent calculation) to specify that the calculation for percentage of scheduled contests or dates of competition for a transfer student-athlete may be based on the method that would be most beneficial to the student-athlete (the rule applicable to the division where the injury or illness occurred or the Division II rule).
- (2) Effective Date. Immediate.
- (3) Rationale. Allowing the student-athlete to take advantage of the percent calculation of the division in which the injury or illness occurred or the division in which the student-athlete is transferring to, provides the best possible scenario for the student-athlete and promotes student-athlete well-being. In addition, this proposal will provide consistency across Division I and Division II.
- (4) Estimated Budget Impact. None.
- (5) Student-Athlete Impact. The adoption of this legislative proposal will positively impact student-athletes.

2. Nonlegislative Action Item.

a. Issue an Official Interpretation Regarding Use of Chiropractor Records as Medical Documentation for Hardship Waivers.

- (1) Recommendation. That the NCAA Division II Management Council issue an official interpretation determining that the medical documentation required to grant a hardship waiver (see Bylaw 14.2.5.2.2) must come from a physician (a medical doctor) who administered care at the time of

the injury or illness. Documentation from an individual other than a physician (e.g. chiropractor, physical therapist) only may be used to support the physician's documentation.

- (2) Rationale. The requirement for medical documentation from a physician cannot be satisfied solely by treatment records from a chiropractor given the legislative requirement for documentation from a medical doctor. This interpretation will provide proper clarification of this issue within the legislation. Further, the recommended clarification provides notification that chiropractic records may be provided as supplemental documentation.
- (3) Student-Athlete Impact. None.

INFORMATIONAL ITEMS

1. **Competition and Practice Prior to Certification of Amateur Status.** The committee was provided with an update regarding cases where a student-athlete has been permitted to participate in practice and/or competition prior to receiving final amateurism certification from the NCAA Eligibility Center (Bylaw 12.1.1.1.3). The committee reviewed the guidelines originally approved at the December 2007 meeting and reaffirmed their position that relief from a withholding condition for a violation of this bylaw should no longer be provided beginning with the 2009-10 academic year. The committee provided relief during the 2007-08 and 2008-09 academic years with the understanding that the amateurism certification process was new and many Division II member institutions were not familiar with the process and were inadvertently allowing student-athletes to participate prior to receiving their certification decisions. However, in reaffirming their guidelines effective for the 2009-10 academic year, the committee believes the membership has had ample time to become familiar with the new amateurism certification process.
2. **Chancellors' and Presidents' Letters.** The committee reviewed chancellors' and presidents' letters sent to institutions when relief from a withholding condition is provided due to institutional error. The committee requested the NCAA student-athlete reinstatement staff begin sending these letters in instances when a season-of-competition waiver – competition while eligible is granted due to meeting the documented coaches' misunderstanding legislation or in limited instances when staff provides relief from this legislation due to coaches' error.

3. **Use of a Semester within 10-Semester Period of Eligibility as it Relates to Misadvisement.** The committee reviewed and reaffirmed the current guideline for instances when a student-athlete has not been denied two participation opportunities but was misadvised by an appropriate institutional authority regarding the use of a semester of full-time enrollment. The committee noted that generally coaches should not be deemed an appropriate institutional authority unless the coaching member has academic responsibilities as demonstrated through documentation such as an organizational chart or departmental policies and procedures.
4. **Request from the California Community College Athletic Association (CCCAA).** The committee reviewed a request submitted by the California Community College Athletic Association to consider amending the hardship waiver legislation as it relates to the administration of the hardship waiver for an injury or illness occurring at a non-NCAA institution (Bylaw 14.2.5.1.1). The committee appreciated the proposal recommended by the CCCAA and understands that advising transfer student-athletes on the intricacies of legislation across multiple divisions can be difficult. However, the committee is comfortable with the legislation as written and believes that it maintains consistency in the waiver process and is most beneficial to Division II student-athletes. Further, the committee felt that maintaining the legislation as written strongly supports the current beliefs of the membership.
5. **Division II Bylaw 30.6.1.3-(a) – “Redshirt Exception.”** The committee reviewed the current legislative exception regarding a redshirt year within a student-athlete’s initial year of enrollment at an institution. The committee determined that there should be no restriction concerning how long the student-athlete remained on the squad list or at what point during the year the student-athlete was added. Appearance on the institutional squad list at any time for any duration during the initial year of enrollment shall be acceptable for the purposes of 10-semester extension requests.
6. **Progress Toward Degree and Change of Major Guidelines.** The committee directed the staff to review first the academic record in existence at the time of the violation to determine whether the student-athlete could otherwise have been eligible under a different major. In circumstances where the student-athlete would have been academically eligible under a different major, the committee agreed that complete relief from a withholding condition is appropriate. Situations involving restrictive majors may also warrant some relief. Further, the committee was not comfortable providing full relief based solely on the fact that a progress-toward-degree waiver was subsequently granted. The committee, however, indicated that staff may consider the subsequent

granting of the progress-toward-degree waiver as mitigation for providing partial relief from a one-for-one withholding condition.

7. **Legislative - Discussion of Incapacitation Language.** The committee discussed the definition of incapacitation in relation to medical hardship waivers. The committee directed the staff to examine the uniformity of language across all three divisions and the potential for a revision of language to provide a more direct definition of incapacitation. The committee also directed the staff to examine the viability of developing a consultant group composed of athletic trainers and medical doctors to assist the staff and committee with review of medical documentation presented with hardship waiver requests.
8. **Green Initiatives.** The staff presented ideas regarding ways to improve the student-athlete reinstatement processes while considering the environment. The staff discussed the possibility of eliminating hard copy decision letters and posting the decision on a secure Web site. The committee agreed that a “paperless” decision process is appropriate and its implementation should be researched by the staff.
9. **Preferential Treatment.** The committee was provided with a summary of preferential treatment cases processed by the staff over the last several months. The committee was comfortable with the decisions made by the staff and the general direction of the staff’s analysis in these types of cases.
10. **Assessment or Analysis for Repayment Requirement.** The committee reviewed case precedent involving circumstances when the student-athlete reinstatement staff provided partial or full relief from the repayment condition. Staff presented the committee with several factors that could be considered when assessing a repayment condition. The committee instructed staff to take into consideration all of the factors as presented. In addition, when assessing the repayment requirement in instances where an institution is putting forward extreme financial hardship, the institution should be required to provide objective documentation, as similar to the legislated requirements for a season-of-competition waiver – competition while eligible, in regard to the financial hardship. Finally, the committee agreed that these factors should only be considered when an institution is able to objectively demonstrate that the student-athlete involved had limited culpability.
11. **Season-of-Competition Waiver – Competition While Eligible Involving Documented Coaches’ Misunderstanding.** The committee reviewed a spectrum of requests for season-of-competition waivers involving limited participation and documented coaches’

misunderstanding, coaching error and unintended use of a season. The committee directed the staff to continue to apply legislation as written and supported by case precedent, while also allowing review on a case-by-case basis in situations involving documented coaching error when other legislated requirements for the waiver are satisfied.

12. Changes to Policies and Procedures.

- a. Timeline for Committee Decision on Written Review of Telephonic Appeal.**
The committee agreed it should provide a decision within seven business days from the date of posting a written review of a telephonic appeal.
- b. Effective Date of New or Modified Guidelines.** The committee supported the concept that the effective date of any new or newly modified guideline shall occur after publication of the guideline to the membership, absent a specifically identified effective date. The committee recognized the need for fairness, as well as the importance of notice to the membership regarding any changes to the guidelines.

- 13. Association's Speaking Agent Policy and Conflict of Interest Statement.** As part of the general discussion regarding the role of committee members, the committee reviewed and discussed the Association's speaking agent policy and conflict of interest statement.

Committee Chair: Suzanne Sanregret, Michigan Technological University

Staff Liaison(s): Nino Berticelli, Membership Services

Cynthia Rail, Membership Services

Danielle Teetzel, Membership Services