REPORT OF THE NCAA DIVISION III INTERPRETATIONS AND LEGISLATION COMMITTEE

This report contains items that were reviewed and discussed June 24, 2009.

ACTION ITEMS.

1. Legislative Action Items.

a. Noncontroversial Legislation – Campus Recruiting Visits - Programming or Benefits Available to Prospective Students Generally.

(1) Recommendation. Approve in concept noncontroversial legislation to specify that the official and unofficial visit limitations do not apply to programming and benefits (e.g., entertainment, meals, etc.) provided by the institution's admissions department and available to prospective students generally. Further to specify the official and unofficial visit limitations would apply if an institution's admissions department conducts a program or hosts a recruiting weekend designed exclusively for a group of prospective student-athletes or if funding for activities done by the admissions department is provided by the athletics department.

(2) Effective Date. Immediate.

(3) Rationale. Through rule and interpretation, the current legislated limitations related to official and unofficial visits for prospective student-athletes are applicable to all campus visits in which any athletics recruitment occurs or in which the athletics department is involved in any of the arrangement for the prospective student's visit. Within Division III, admissions offices commonly host recruitment weekends for students generally and during these events, athletics department staff interact with prospective students. Under current legislation, it would be necessary to apply all official and unofficial visit limitations to those on-campus admissions events in which athletics recruitment occurs. This proposal would specify that a prospective student-athlete can receive the same on-campus benefits and programming as prospective students generally from the institution's admissions office without having to apply the official and unofficial visit limitations, even if athletics recruitment occurs during the admissions event. This issue was discussed during the 2009 NCAA Regional Rules Seminar and the membership was able to provide feedback and input. There was no resistance expressed to this recommendation at that time. As such, it is being recommended as noncontroversial legislation.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

b. Noncontroversial Legislation – Social Networking and Electronic Transmissions with Prospective Student-Athletes.

(1) Recommendation. Adopt noncontroversial legislation establishing an exception to the electronic transmissions legislation that would allow an institution's athletics department, or a campus department acting on behalf of athletics, to send electronically transmitted correspondence in forms other than electronic mail and facsimiles to prospective student-athletes provided the following conditions are met:

(a) Any electronic transmission that is being delivered to a public group that may include prospective student-athletes must be done through means that are available to any member of the general public;

(b) All prospective student-athletes who choose to receive electronic transmissions through the electronic service must always maintain the ability to opt-out of the receipt of the communications;

(c) The content of any electronic transmission that is being delivered to a public group that may include prospective student-athletes must be the same content for all members of the group (e.g., news alerts, admissions and alumni information, scores) and of a general nature; and

(d) Electronic transmissions being sent by, or on behalf of, an institution's athletics department under the parameters of this exception cannot contain any information that is designed to solicit enrollment of prospective student-athletes.

(2) Effective Date. Immediate.

(3) Rationale. Since the development of the electronic transmission legislation, software and Web sites have been developed that allow for Division III institutions to release information to the public in a variety of ways beyond electronic mail and facsimiles. The current legislation does not allow an athletics department to use these electronic means of communication in dealing with the public unless the school is able to

verify that prospective student-athletes are not receiving the information. The current legislation creates practical issues for Division III schools that wish to release general media reports, scores and other public information using new technologies. In developing this proposal, the committee felt the type of information being made available on an institution's Web site should be permissible to send out through other delivery methods without the practical limitations resulting from the current legislation. This proposal is designed to address current technologies, such as Twitter and Facebook groups, that Division III schools wish to use; however, the proposal also lays a foundation for fundamental parameters that can be applied to technologies developed in the future. The proposal does not allow direct person-to-person electronic communication with an individual prospective student-athlete sent by a member of the athletics department staff, or on their behalf, (e.g., instant messaging, comments via MySpace, Wall-to-Wall via Facebook, direct messaging via Twitter) except via electronic mail or facsimile. Further, the proposal ensures the communications are being sent from the athletics department or the institution, and not from individual members of the athletics department acting on their own.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

c. Interpretations – Specific Individual Workouts.

(1) Recommendation. Archive two official interpretations (5/3/07, Item Nos. 3 and 4) and approve the following official interpretation:

Providing Pre-enrollment Academic and Conditioning Information to Prospective Student-Athletes (III). ILC determined that any necessary pre-enrollment information not provided to all prospective students regarding orientation, academics, workout and conditioning activities may be provided to a prospective student-athlete after the prospective student-athlete's paid acceptance of the institution's written offer of admission and/or financial aid. Permissible workout and conditioning information to be provided to the prospective student-athlete may include an individual-workout program. [References: NCAA Division III Bylaws 13.4.1 (recruiting materials -- general regulations) and 17.02.1.1 (athletically related activities); and official interpretation (5/03/07, Item No. 3), which has been archived]

(2) Effective Date. Immediate.

(3) Rationale. The two interpretations to be archived provide details about general workouts. Based on the adoption of NCAA Division III Proposal No. 2009-2, which specified that an institutional staff member may design a voluntary individual-specific workout program for a student-athlete and the fact that individual workouts can now be tailored to the specific student-athlete, these interpretations should be archived. The interpretation related to prospective student-athletes still provides important details about the delivery of pre-enrollment information, and so it would be modified to remove the prescriptive language regarding the general workouts and reissued as detailed above.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

d. Modification of Wording – Practice After Receipt of Hardship Waiver.

(1) Recommendation. Approve in concept a modification of wording to amend current Bylaw 14.2.5.3 (eligibility for practice after receipt of hardship waiver) to clarify that a student-athlete who is granted a hardship waiver may practice and/or participate in rehabilitative activities for the remainder of the season without using a season of participation, provided the student-athlete does not compete in that sport for the remainder of the season.

(2) Effective Date. Immediate.

(3) Rationale. Current legislation states that a student-athlete who is granted a hardship waiver may practice and/or participate in rehabilitative activities for the remainder of the season without using a season of participation, provided the student-athlete does not compete in that sport for the remainder of the academic year. Based on the adoption of Division III Proposal 2009-6, it is now possible for student-athletes to compete in the one date of competition during the nontraditional segment without using a season of participation. As a result of this legislative change, the academic year language within the current rule regarding practice after receipt of a hardship waiver is no longer accurately stated and should be replaced with a reference to competition in the season (or traditional segment) instead of the academic year.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. Clarifies that student-athletes who receive a hardship waiver during the traditional segment can compete in the date of competition during the nontraditional segment without using a season of participation, in the same manner as all other students.

2. Nonlegislative Action Item.

- Recommendation for Handling of Issues Surrounding Earmarking of Donated Funds During Team Fundraising.

(1) Recommendation. That the NCAA Division III Management Council waive the obligation for member institutions to seek reinstatement for student-athletes as a result of amateurism violations that occurred prior to July 21, 2009, related to team fundraising issues. Violations of the amateurism legislation that have occurred prior to July 21, 2009, would remain institutional violations and would need to be documented and filed appropriately; however, the student-athlete's eligibility shall not be affected. In addition to this recommendation, the committee noted it will further study the Division III legislation that impacts fundraising during its September in-person meeting. Finally, the committee noted that institutions should continue to apply the legislation in this area as it is currently written, which is best described in a January 2, 2007, educational column.

(2) Effective Date. Immediate.

(3) Rationale. Based on feedback received following the release of a January 2, 2007, educational column and numerous calls and questions about fundraising through the years, the Division III staff taught an educational session on the rules surrounding team fundraising during the Regional Rules Seminar. The rules sessions led to several discussions from schools who admit to having incorrectly applied the legislation for some time surrounding team fundraising, particularly with respect to the failure to pool team funds and the impermissible activity of individually earmarked fundraised monies. This misapplication results in the reality that there are

multiple violations of amateurism legislation among Division III members. The violations pose a larger concern because the violations at issue would require reinstatement of the student-athletes involved and the volume of those violations appears to be substantial.

In addition, there was some feedback and discussion about whether the legislation, as it currently applies, is appropriate for Division III. The committee agreed, due to the depth of the issue, that it should be further studied during an in-person meeting.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. This recommendation will prevent a large number of Division III student-athletes from needing to seek reinstatement as a result of violations in the area of team fundraising.

INFORMATIONAL ITEMS.

- None.

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