REPORT OF THE NCAA DIVISION III INTERPRETATIONS AND LEGISLATION COMMITTEE

***ACTION ITEMS*.**

1. Legislative Action Items.

a. 2010 NCAA Convention Legislation - Prospective Student-Athlete Using Facilities Open to the Public When an Athletics Department Staff Member is Monitoring the Facility.

(1) Recommendation. Sponsor legislation for the 2010 NCAA Convention to amend the tryout legislation so that it would be permissible for an athletics department staff member, in the course of their institutional job responsibilities (e.g., lifeguard, facilities supervisor), to observe a prospective student-athlete using the institution's facilities that are open to the public without that observation being considered a tryout, provided the staff member is only providing safety monitoring and facility security and not directing the prospective student-athlete's athletics activity. The NCAA Division III Interpretations and Legislation Committee recommends the NCAA Division III Management Council include this proposal as a second part to the NCAA Division III Proposal No. 2010-1, which also deals with facility monitoring.

(2) Effective Date. Immediate.

(3) Rationale. Current tryout legislation prohibits a prospective student-athlete visiting a member institution from participating in recreational activities if the activities are observed by members of the athletics department coaching staff. The committee feels that, similar to the 2010 proposal dealing with facility monitoring of currently enrolled student-athletes, this proposal also deals with the reality on Division III campuses that athletics department staff members are often serving as monitors of facilities as a part of their employment obligations, and that current legislation is not reflective of the needs of the position of facility monitors and does not allow for those individuals to properly handle their job duties without a violation. The immediate effective date would allow institutions to take advantage of the change throughout the remainder of the 2010 academic year.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

b. Noncontroversial Legislation – NCAA Division III Bylaw 13.1.4.1 (Prospective Student-Athlete's Educational Institution).

(1) Recommendation. Approve in concept noncontroversial legislation to amend Bylaw 13.1.4.1 (prospective student-athlete's educational institution) in order to clarify that contact with a student-athlete at a practice or competition site that is also the prospective student-athlete's educational institution that occurs after school hours is not subject to the restrictions set forth in Bylaw 13.1.4.1 and does not need the permission of the institution's executive officer.

(2) Effective Date. Immediate.

(3) Rationale. Current legislation dealing with contact at a prospective student-athlete's educational institution does not clearly indicate whether permission from the institution's executive officer is needed if the contact is taking place after school hours. This noncontroversial amendment would clarify that permission for contact occurring at a prospective student-athlete's educational institution is only needed if the contact is occurring during the school day.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

c. Noncontroversial Legislation - Meals Being Provided on Road Trips.

(1) Recommendation. Approve in concept noncontroversial legislation that allows representatives of athletics interest (including parents of student-athletes) to pay for or provide a team meal to a team outside of the locale of the institution, only if that meal is in connection with an away-from-home contest or en route to or from such a contest.

(2) Effective Date. Immediate.

(3) Rationale. Under current Division III legislation all permissible expense provisions for road trips are based on the institution providing the expenses and it is therefore not permissible for parents of student-athletes or other representatives of athletics interests to provide meals on road trips that occur outside of the locale of the institution. Under current legislation, it would be permissible for parents of the student-athlete to

make a donation to the athletics department and for the athletics department staff members to purchase the meal on a road trip; however, the parents or other representatives of athletics interests cannot pay for the meal themselves. This noncontroversial amendment would modify the legislation in order to allow for the practical need and desire for many Division III schools to allow parents of student-athletes to provide meals on road trips for student-athletes. Because the meal would be in connection with an away-from-home contest or en route to or from such a contest, there would continue to be institutional control in monitoring the amount of money given for the meals.

(4) Estimated Budget Impact. This could save some institutions money if other individuals were willing to provide meals during a road trip.

(5) Student-Athlete Impact. None.

d. Modification of Wording – Timing of Alumni Contest.

(1) Recommendation. Approve in concept a modification of wording to amend current Division III legislation under Bylaws 14.2.4.1 (minimum amount of participation) and 17.4.5.3.2 (alumni game) to provide clarity on the application of the permissible timing of an alumni contest and the impact of participation in the alumni game to a student-athlete's use of a season of participation based on the adoption of Proposal No. 2009-6. The permissible timing of the contest should be based on the language within the official interpretation: [Reference: (6/10/08, Item No. 5)]

(2) Effective Date. Immediate.

(3) Rationale. This modification of wording will provide clarity on the permissible timing of the alumni game and also provide clarity related to use of a season of participation for student-athletes participating in an alumni game during the nontraditional segment.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

e. Modification of Wording – Timing of Recruiting Legislation.

(1) Recommendation. Approve in legislative format a modification of wording within Bylaw 13 (recruiting) to provide clarity regarding the

current application of the timing of the recruiting legislation. See addendum A to this report for draft of legislation.

(2) Effective Date. Immediate.

(3) Rationale. This modification of wording will clarify the timing of the recruiting legislation. Currently, the legislation is silent regarding when various aspects of the recruiting rules apply, because there are no restrictions within Division III. This has been seen to cause confusion and that confusion can be eliminated with this modification of wording.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

f. Modification of Wording – Bylaws 16.1.3.1 (Cash or Equivalent) and 16.1.3.2 (Gift Certificates).

(1) Recommendation. Approve in concept a modification of wording within Bylaws 16.1.3.1 (cash or equivalent) and 16.1.3.2 (gift certificates) to clarify that gift cards that cannot be redeemed for cash are permissible for student-athletes to receive.

(2) Effective Date. Immediate.

(3) Rationale. Long before the advent of plastic credit card style gift cards, all three NCAA Divisions prohibited gift certificates. The historical research for this prohibition reveals the rule was created because gift certificates at that time could typically be redeemed for cash after a small purchase. The rules also prohibited student-athletes from receiving any tangible items after enrollment unless they were properly personalized. The NCAA membership later changed the personalization rules as part of its deregulation effort to allow student-athletes to receive material items without having to be properly personalized in part to allow some of the new technology items that were being developed. In addition, the membership also changed the legislation to allow any type of gift certificate during the summer and when the student-athlete was not regularly enrolled during the academic year, as long as the amateur sports organizations rules allow the receipt of the certificate. These modifications were designed to allow a student-athlete to receive any item as an award for participation in an event, subject to the established value limitations, provided it is not cash or a cash equivalent. In furthering this

principle, the NCAA staff has stated that the modern plastic gift cards that can only be redeemed for actual tangible items within a specified store are permissible as awards and are not the same as the gift certificates prohibited within the legislation. This issue, and the questions received by the staff, are more prevalent in Division I situations like football bowl games. However, the question also arises within Division III related most often to individual sports such as golf or cross country in which student-athletes win these awards while not representing the institution. This modification of wording will provide clarity of the application of these rules within the Manual.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

g. Incorporation of Official Interpretation – Use of Service or Software that Converts Electronic Mail Into a Text Message.

(1) Recommendation. Approve the incorporation of the following official interpretation into the Division III Manual:

Use of Service or Software that Converts Electronic Mail into a Text Message (III). The NCAA Division III Interpretations and Legislation Committee determined that it is not permissible for institutional staff members to use a service or software that converts electronic mail (e.g., e-mail) sent by an institutional staff member into a text message when received by the prospective student-athlete. [References: Bylaw 13.02.9 (electronic transmissions) and Proposal No. 2008-4]

(2) Effective Date. Immediate.

(3) Rationale. This incorporation of official interpretation: [Reference: (3/24/08, Item No. 12-c)], into the Division III Manual will provide clarity on the impermissible use of software systems designed to send multiple text messages to prospective student-athletes.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

h. Incorporation of Official Interpretation – Student-Managers and Student-Coaches Using a Season of Participation.

(1) Recommendation. Approve the incorporation of the following official interpretation into the Division III Manual:

Student-Managers and Student-Coaches Using a Season of Participation (III). The NCAA Division III Interpretations and Legislation Committee confirmed that if a student-manager or a student-coach (regardless of gender or team) participates as a team member in practice or other physical activities during the timeframe set forth in Bylaw 14.2.4.1 (minimum amount of participation), the student would be charged with a season of participation. A student-coach or student-manager's role should be limited to performing coaching or managerial duties and not serving as a quasi team member under the guise of being a coach or a manager. [Reference: Bylaw 14.2.4.1 (minimum amount of participation) and official interpretation (8/13/08, Item No. 3)]

(2) Effective Date. Immediate.

(3) Rationale. The incorporation of official interpretation: [Reference: (8/13/08, Item No. 4)] into the Division III Manual will provide clarity on the need to charge a season of participation against student-coaches or student-managers that are involved in practice activities. This interpretation and incorporation are designed to prevent schools from designating students as managers or coaches as a quasi 'redshirt'.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

i. Official Interpretation – Eligibility for Foreign Tour if Ineligible During a Term of the Previous Academic Year.

(1) Recommendation. Approve the following official interpretation:

Eligibility for Foreign Tour If Ineligible During a Term of the Previous Academic Year (III). The NCAA Division III Interpretations and Legislation Committee determined that a student-athlete who is eligible for any term during the previous academic year would be eligible to compete in the institution's foreign tour taken during the summer immediately following that same academic year. For example, if a student-athlete is eligible in the fall term, but not eligible in the spring term of the same academic year, the student-athlete would be eligible to

compete in the institution's summer foreign tour taken during the summer after the conclusion of the preceding academic year. The committee noted that institutions have autonomy to exercise more stringent eligibility requirements if they chose to do so. [References: Bylaw 30.7.2 (eligibility of student-athletes) and staff interpretation (4/2/08, item a), which has been archived for Division III]

(2) Effective Date. Immediate.

(3) Rationale. The committee felt the staff interpretation: [Reference: (4/2/08, item a)] should be elevated to the official interpretation level.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

j. Official Interpretation - Organized Competition or Training Prior to Initial Collegiate Enrollment -- Expected Date of Graduation – CEGEP.

(1) Recommendation. Approve the following official interpretation:

Organized Competition or Training Prior to Initial Collegiate Enrollment -- Expected Date of Graduation -- CEGEP (III). The NCAA Division III Interpretations and Legislation Committee determined that for purposes of identifying the expected date of high school graduation pursuant to the organized competition prior to initial collegiate enrollment legislation, the *College d'Enseignement General et Professional* (*CEGEP*) is a two-year program that a prospective student-athlete from Quebec, Canada, may complete after earning a *Diplome d'Etudes Secondaires* (*DES*). Enrollment in the *CEGEP* will not constitute a delay of enrollment, provided the student-athlete enrolls in the *CEGEP* immediately after earning a *DES* and he or she earns a *Diplome d'Etudes Collegialles* (*DEC*) at the conclusion of the consecutive two-year program. [Reference: Bylaw 14.2.4.3 (participation in organized competition prior to initial collegiate enrollment)]

(2) Effective Date. Immediate.

(3) Rationale. The committee felt the Division II official interpretation: [Reference: (11/7/08, Item No. 1)] should become an official interpretation within Division III also.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

k. Official Interpretation - Definition of "Monitor."

(1) Recommendation. Approve the following official interpretation:

Definition of "Monitor" (III). The NCAA Division III Interpretations and Legislation Committee determined that for purposes of the exception to athletically related activities for strength and conditioning personnel, the term "monitor" includes observing and watching closely to ensure that student-athletes are provided a safe and controlled environment. Such personnel may demonstrate proper technique and give advice to ensure that the workout is taking place in a safe fashion. [Reference: Bylaw 17.02.1.1.1 (exceptions – athletically related activities)]

(2) Effective Date. Immediate.

(3) Rationale. The committee felt the Division II official interpretation: [Reference: (11/7/08, Item No. 6)] should also become an official interpretation within Division III.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

l. Official Interpretation - Printed Promotional Materials for Conference or NCAA Championships.

(1) Recommendation. Approve the following official interpretation:

Printed Promotional Materials for Conference or NCAA Championships (III). The NCAA Division III Interpretations and Legislation Committee determined that a member institution or conference that is hosting any portion of a Division III conference or NCAA championship may send printed materials promoting the championship event (e.g., ticket application or promotional brochures, flyers or posters) to a high school or a two-year college coach or administrator, but not to specific prospective student-athletes, provided:

(a) The printed material includes only information relevant to the championship event;

(b) The printed material is available to the general public, including all high schools in the local area; and

(c) The printed material contains no information related to the institution's athletics program.

The committee noted that under such circumstances, such an item would not be considered a recruiting item. [References: Bylaw 13.4.1 (recruiting materials) and official interpretation (1/30/03, Item No. 16-a)], which has been archived.

(2) Effective Date. Immediate.

(3) Rationale. The committee felt the official interpretation: [Reference: (1/3/03, Item No. 16-a)] should be updated to include conference tournament promotional activities.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

2. Nonlegislative Action Items.

- **Begin Formal Discussions Related to Concerns with Out-of-Season Athletically Related Activities.**

(1) Recommendation. To begin discussions related to growing concerns with the legislation surrounding current out-of-season athletically related activities within Division III and how best to address the concerns. As a part of this referral, the committee discussed the current trends in strength and conditioning activities, the societal trends of specialization within a specific sport from a young age for student-athletes, and noted that to be competitive, a student-athlete must be engaged in year-round activities related to their sport.

(2) Rationale. The committee feels that the Division III ideals are not that nothing athletically related will occur out-of-season, but that athletics will not interfere with a student-athlete's scholastic activity. The committee feels the legislation may not be reflective of the current realities and ask

the Management Council to begin directing efforts within the governance structure to begin trying to resolve these concerns

(3) Estimated Budget Impact. None.

(4) Student-Athlete Impact. None.

INFORMATIONAL ITEMS.

1. Review of NCAA Division III Strategic Plan. The committee reviewed the NCAA Division III Strategic Plan, noting items relevant to this committee. Mr. Fulks voiced concern about the lack of items related to outreach efforts with the NCAA Division III faculty athletics representatives.

2. Review Recent Divisions I and II Legislative Actions. The committee reviewed Divisions I and II legislative actions dating from July 2008 to January 2009 for possible inclusion within Division III legislation. The committee took no formal actions, but made the following referrals to other committees for further review:

a. Referred Division I Proposal Nos. 2008-53 and 2008-56 and Division II Proposal No. 2009-13 to the NCAA Division III Management Council Playing and Practice Seasons Subcommittee for further review;

b. Referred Division I Proposal No. 2008-63 to the NCAA Division III Membership Committee for further review;

c. Referred Division II Proposal Nos. 2009-8 and M-2009-4 to the NCAA Division III Committee on Student-Athlete Reinstatement for further review; and

d. Referred Division II Proposal No. NC-2009-22 to the NCAA Division III Management Council Subcommittee for Legislative Relief for further review.

e. In addition, during its review of Division II Proposal No. M-2009-2, the committee noted that the NCAA staff should editorially change references to video/audio materials as needed within the Manual.

3. Review Tryout Legislation Based On Outcomes of Voting on Division III Proposal Nos. 2009-10 and -11. The passage of Division III Proposal Nos. 2009-10 and -11 further refined the Division III tryout legislation. Despite these two proposals, the staff

noted that the entirety of the tryout legislation is largely a product of prefederation legislation that may or may not speak to the current needs of Division III and that Division III institutions often struggle in applying the current legislation. For these reasons, the committee reviewed the tryout legislation in its entirety in order to determine if the current status of the tryout legislation is the best fit for Division III. The committee recommended that the staff draft two versions of legislative language for the committee to review at a future point. The committee recommended that draft option one be a pure deregulation on the current rules, stating the use of facilities by a prospect is not a tryout unless 'x,' 'y' or 'z' occurs. Some of the criteria should include that combine activities would be impermissible, that regulation should still exist that would guard against coaches watching current student-athletes and prospective student-athletes playing against each other in organized pick-up games, and finally that schools could not target specific groups of prospective student-athletes to use the facilities. The committee recommended the second draft option be a rewrite of the current legislation, making the various permissible versus impermissible activities more clear. The committee noted that while the current legislation attempts to do this, the first two items in the nonpermissible list are actually things that you can permissibly do, such that the headers of the sections cause confusion and could benefit from a rewrite. The committee agreed that it would review the two draft options at a future meeting and then provide a recommendation for how to address this legislation at that time.

4. **Review Redraft of Practice Opportunities Formula Legislation**. The committee reviewed a draft of an editorial revision prepared by the staff to the section of the Manual relating to the practice opportunities formula used to determine the permissible start date for fall preseason practice in sports other than football.

5. **Discuss Appropriateness of Timing of Contacts and Recruiting Activity.** The committee discussed the current time frame for the legislation controlling the recruiting process within Division III and whether this legislation was functioning appropriately. The committee agreed that Division III institutions are typically waiting on Division I and II institutions to sign their recruits prior to those prospective student-athletes finalizing their college decisions. Because of this reality, the committee felt there was no need to adjust the current timeline for these rules and noted that if that were done, it could create some imbalances for both the coaches and prospective student-athletes. The committee took no action.

6. **Review of Bylaw 13 (Recruiting) Legislation Created Prior to Federation for More Division III Focus**. Similar to the work the committee undertook within Bylaw 14 (eligibility) in 2008, the committee reviewed all of the Bylaw 13 (recruiting) legislation

to determine whether some of the prefederation legislation should be amended based on the current culture within Division III recruiting.

The committee reviewed the number of meals allowed that trigger an official (versus unofficial) visit, and how this limit often interplays with the admissions department involvement in campus visits. The committee asked the staff to draft a legislative language option for further review and consideration during a later meeting. The committee directed the staff to focus on guidelines that would permit and clarify that a prospective student-athlete can receive the same meals as a regular prospective student and not trigger the official visit legislation, even if the recruitment is being done through the athletics department. The committee expressed their feeling that the official visit legislation should only be triggered if the athletics department itself pays for more than one meal or pays other expenses.

7. **Review of Bylaw 13.1.4 (Contact Restrictions At Specified Sites).** The committee requested the staff draft an official interpretation for approval on the next committee teleconference clarifying the ability to contact the parents of a prospective student-athlete during competition and indicated they would also recommend incorporating that interpretation into the Manual based on approval.

8. **Review of Issue Related to Delivery of Enrollment Forms.** Based on the concerns expressed by a Division III conference commissioner, the committee discussed the ability to hand deliver admissions forms or written offers of admission to prospective student-athletes. The concerns expressed by the commissioner related to the pressure this might put on a prospective student-athlete to sign the documents and the issues this could cause. The committee noted there is currently no legislation within Division III that would prohibit a hand delivery of any recruiting materials, including a written offer of admissions. They also noted that the focus of the current legislation is centered on media presence during signing, as opposed to delivery of the admission's documents. Finally, during its review the committee noted that delivery of a written offer of institutional financial aid is seemingly limited by Bylaw 15.4.3 (written offer of aid) and it would not be permissible for that offer of financial aid to be hand delivered by a coach or athletics department staff member. The committee recommended to formally refer this issue to both the Faculty Athletics Representatives Association and the NCAA Division III Student-Athlete Advisory Committee for further study and discussion.

9. **Review Current Structure of Bylaw 12 (Amateurism)**. The committee reviewed a recommendation from a former committee member about possibly restructuring Bylaw 12 (amateurism) such that the legislation is more clearly understood within the Manual.

The committee recommended the staff redraft the legislation editorially so that the rules are grouped into three parts: prior to collegiate enrollment, student-athlete who delays collegiate enrollment and currently enrolled student-athletes. In addition, the committee requested the staff attempt to develop a chart for the Manual detailing the amateurism basics.

In addition, as a part of the same discussion, the committee endorsed the staff's indication that editorial revisions would be done in the following three areas:

a. Clarify Bylaw 12.2.3.2 (competition with professionals) so that it more directly mirrors Bylaw 12.1.1-(e).

b. Clarify within Bylaw 12 (amateurism) making references where needed, that delayed enrollment by a student-athlete would trigger the application of the seasons-of-participation legislation within Bylaw 14.2.4.3 (participation in organized competition prior to collegiate enrollment).

c. Clarify the application of the Major Junior A hockey rule and how Bylaw 14.2.4.3 (participation in organized competition prior to collegiate enrollment) is always triggered by participation within Major Junior A hockey.

10. Review Limitations of Scouting Opponents Using Third Party Videotape. At the request of a Division III commissioner, the committee reviewed an issue related to third party videotaping of competitions for the purpose of scouting future opponents. The commissioner's particular concerns were not directed towards conference arranged video tape exchange, but rather on third parties videotaping competitions outside of the tape exchange arrangement and giving those to the team's coach for purposes of scouting. The committee felt this issue is better managed at the campus and conference levels, and would be extremely difficult to enforce from a national level. The committee noted a discomfort with recommending NCAA legislation that could force event management staffs to need to monitor activities within the crowds at their contest. The committee also noted that in some cases, the videos being taken at games were being shown in the public domain on sites such as You Tube. The committee suggested that one possible approach would be for conferences experiencing these issues to focus on banning the acceptance of such tapes by coaches within their conference, as opposed to the actual filming of the video. The committee noted that third party video is prohibited during NCAA championships; however, recognized that the enforceability of that prohibition is based on the proprietary rights of ownership over the game footage, and therefore has a legal enforceability if such footage appears within the marketplace, as opposed to a legislative enforceability against a member school.

11. Review Division III Recruiting Quick Reference Guide. The committee reviewed a one-page quick flyer and a tri-fold version of a Division III recruiting quick reference guide that was produced by the staff. The committee recommended the staff immediately distribute the guide to member institutions. In addition, the committee discussed whether the one-page version of the information should be included as a chart within the Manual and determined that inclusion within the Manual could possibly cause confusion between the purposely annotated chart and the full text of the legislation. As such, the committee took no action.

12. Development of Rules Education Topics for 2009. The committee discussed opportunities for rules education efforts for 2009 and recommended the following discussion items to the staff for production:

a. Gambling Information for Student-Athletes.

- Two flyers (one for fantasy leagues and one for tournament pools).

b. Audio Segments.

(1) Top five rules violations;

(2) Contact with parents while recruiting at events; and

(3) International student-athletes (amateurism, where they went to school, what to do, etc.)

c. Video Segments.

(1) Convention recap;

(2) Monitoring of workouts;

(3) Reporting secondary rules violations;

(4) Financial aid topic number one;

(5) Sports sponsorship;

- Related educational column = probationary timelines and results.

(6) Academic support services – providing similar tutoring, priority registration, etc.;

(7) Financial aid topic number two; and

(8) 2010 Convention proposals (three-part series).

13. Future Meetings.

a. September In-Person Meeting. Dates for the meeting will be September 21-22 in Indianapolis, Indiana.

b. Select Dates and Location for 2010 In-Person Meetings. The committee chose September 23-24, 2010, for the second 2010 in-person meeting, to be held in Indianapolis, Indiana.

c. Future Teleconference Schedule. The committee identified the following dates and times for future teleconferences:

(1) 3 p.m. Wednesday, March 25;

(2) 3 p.m. Wednesday, May 27;

(3) 3 p.m. Wednesday, June 24;

(4) 3 p.m. Wednesday, July 29;

(5) 3 p.m. Wednesday, August 26;

(6) 3 p.m. Wednesday, October 28; and

(7) 3 p.m. Wednesday, November 18.

Committee Chair: Terry Rupert, Wilmington College (Ohio)
Staff Liaisons: Jay Jones, Academic and Membership Affairs
Jeff Myers, Academic and Membership Affairs