REPORT OF THE NCAA DIVISION III INTERPRETATIONS AND LEGISLATION COMMITTEE

ACTION ITEMS

1. Legislative Items.

a. 2011 NCAA Convention Proposal – Amateurism – Exception for Prize Money for Enrolled Student-Athletes – Outside the Playing Season During the Academic Year – Individual Sports.

(1) Recommendation. Sponsor legislation for the 2011 NCAA Convention that would permit a student-athlete in an individual sports to accept prize money based on his or her place finish or performance in an open athletics event (an event that is not invitation only), provided the competition occurs outside the institution's playing season during the institution's summer vacation period and the prize money does not exceed actual and necessary expenses and is provided only by the sponsor of the open event.

(2) Effective Date. August 1, 2011.

(3) Rationale. The committee reviewed NCAA Division I Proposal No. 2008-13-B regarding the acceptance of prize money during the summer by enrolled student-athletes in individual sports. The NCAA Division III Interpretations and Legislation Committee noted that currently a prospective student-athlete may accept prize money based on place finish, up to actual and necessary expenses, in order to offset costs incurred while participating in an open athletics event. In the interest of student-athlete well-being and consistency in the rules, the Interpretations and Legislation Committee believed the same opportunity should be available to enrolled student-athletes. Specifically, the current post-enrollment amateurism rule adversely affects student-athletes in individual sports. Student-athletes who participate in team sports and who compete on outside teams during summer vacation periods are able to travel and have their expenses paid in full or subsidized by their teams, team sponsors and/or event organizers. The committee believed student-athletes in individual sports should have the same opportunity to compete at a high level during summer vacation periods while having some or all of their expenses covered. The committee noted this should be limited to the receipt of actual, incurred, out-of-pocket expenses. A student-athlete would not be able to profit from competing in events and accepting money based on place finish. Moreover, in order to safeguard against student-athletes missing class and minimize the potential intrusion and distraction during the academic year, the committee believed this should apply only to open events taking place outside of the playing and practice season during institutional summer vacation periods. Finally, the committee agreed the calculation of actual and necessary expenses under this proposal should not include the expenses of fees for anyone other than the student-athlete (e.g., coach's fees or expenses, parent's expenses) as noted in the Division I rule.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. Permits enrolled student-athletes to offset their actual and necessary expenses for competition during the summer months which is the same exception that student-athletes in Divisions I enjoy.

b. Noncontroversial Legislation – Ethical Conduct – Unethical Conduct – Application to Institutional Staff.

(1) Recommendation. Approve in concept noncontroversial legislation to clarify in NCAA Division III Bylaw 10.1 (unethical conduct) that an institutional staff member includes any individual who performs work for the institution or the athletics department and/or does not receive compensation from the institution for performing such services.

(2) Effective Date. Immediate.

(3) Rationale. In a review of Divisions I, II and III legislation in this area, the committee noted the list of individuals to whom Bylaw 10.1 applies in Division I contains examples which helps clarify the legislation. The committee agreed such clarity would be helpful in educating institutions regarding the extent of the legislation's application and believes specifying that "institutional staff member" includes any individual who performs work for the institution or the athletics department and/or does not receive compensation from the institution for performing such services is appropriate given the variety of staffing situations, such as volunteer or part-time positions, that exist in the Division III membership.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

c. Noncontroversial Legislation – Ethical Conduct – Unethical Conduct.

(1) Recommendation. Approve in concept noncontroversial legislation to amend Bylaw 10.1 (unethical conduct) to include the following additional examples of unethical conduct: (1) failure to provide complete and accurate information to the NCAA, the NCAA Eligibility Center or an institution's admissions office regarding an individual's academic record (e.g., schools attended, completion of coursework, grades and test scores); (2) fraudulence or misconduct in connection with entrance or placement examinations; (3) engaging in any athletics competition under an assumed name or with intent to otherwise deceive; and (4) failure to provide complete and accurate

information to the NCAA, the NCAA Eligibility Center or the institution's athletics department regarding an individual's amateur status.

(2) Effective Date. Immediate.

(3) Rationale. In a review of Divisions I, II and III legislation in this area, the committee noted that four examples of unethical conduct are not listed in the Division III version. While not an exhaustive list, the codification of such examples provide clear situations in which unethical conduct may be found which will be helpful to the membership and staff.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. Provides clarity on additional examples of what constitutes unethical conduct for student-athletes and institutional staff.

d. Noncontroversial Legislation – Administrative Regulations – Dissolution and Reorganization.

(1) Recommendation. Adopt noncontroversial legislation to dissolve Bylaw 30 by shifting all provisions of Bylaw 30 into other areas of the legislation. [See Attachment]

(2) Effective Date. August 1, 2011.

(3) Rationale. The committee noted the staff's recent efforts to consolidate and bring consistency to the NCAA Manual in all three divisions. The committee noted these changes are not substantive, but rather a re-direction of the provisions into sections of the Manual that are more topically specific. Additionally, this redirection involves changing administrative bylaws to operational bylaws which results in a change in the method by which these bylaws may be amended in the future. Administrative bylaws may be changed by a majority of the NCAA Division III Management Council and are not subject to ratification by the membership. The operational bylaws, however, may not be changed by this method, but rather may be changed by noncontroversial legislation which needs the approval of three-fourths of the Management Council and is subject to membership ratification. The committee reviewed a chart of the recommended changes and believed such reorganization will be helpful.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

e. Noncontroversial Legislation – Playing and Practice Seasons – Nontraditional Segment Limitations – Final Examination Periods During Nontraditional Segment.

(1) Recommendation. Approve in concept noncontroversial legislation to specify the five weekday prohibition on athletically related activities surrounding final examinations for the spring academic term applies to any regular final examination period that falls during an institution's nontraditional segment (e.g., winter quarter) even if the institution's playing season will not end with that final examination period.

[NOTE: This is a similar recommendation to the Playing and Practice Season Subcommittee's item d. The Council will be asked to determine the most appropriate proposal type.]

(2) Effective Date. August 1, 2011.

(3) Rationale. The intent of Proposal No. 2010-5 was to provide sufficient time for student-athletes to prepare for final examinations. While the original intent and discussion of the proposal did not contemplate application to final examination periods that do not end the institution's playing season, it is consistent with the proposal's intent to extend its application to any regular final examination period that falls during an institution's nontraditional segment. For example, under current legislation a quarter-based institution could begin its nontraditional segment during the winter quarter and continue to practice and/or compete prior to and during the winter quarter final examination period. Such practice is contrary to the intent of Proposal No. 2010-5 and the committee found no reason to treat the winter quarter different than the spring quarter for purposes of the nontraditional segment. The committee believed this can be addressed via noncontroversial legislation as opposed to 2011 Convention legislation as recommended by the NCAA Division III Management Council Playing and Practice Seasons Subcommittee given the intent is consistent with Proposal No. 2010-5.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. Provides student-athletes with sufficient academic preparation time for all final examination periods during the nontraditional segment.

f. Modification of Wording – Playing and Practice Seasons – Athletically Related Activities – Observation of Student-Athletes in Sport Other Than Coaching Staff's Sport.

(1) Recommendation. Approve in concept a modification of wording to clarify that Bylaw 17.02.1.1-(k) (athletically related activities) which prohibits any coaching staff member from observing any student-athletes engaging in nonorganized sport-specific activities is sport specific and only applies to student-athletes in the coach's sport.

(2) Effective Date. Immediate.

(3) Rationale. While a strict reading of the legislation would suggest that the legislation applies to student-athletes in any sport, the legislative and interpretive history demonstrate the original intent was intended to apply only to student-athletes in the coach's sport. Specifically, the legislation is a result of Proposal No. I-2005-3 which incorporated an official interpretation [Reference: 7/2/93, Item No. a] which implies that it was sport specific. Therefore, this change is necessary to clarify the intended application of this legislation.

(4) Estimated Budget Impact. Potential cost savings in permitting institutions to assign responsibilities for facility monitoring to coaches in other sports instead of hiring non-coaches to perform these duties.

(5) Student-Athlete Impact. Permits institutions to determine appropriate staffing to monitor nonorganized activities under Proposal No. 2010-4 to ensure a safe and secure environment for student-athletes.

g. Incorporation of Official Interpretation into the Legislation – Advertising of Collegiate Contests Held in Conjunction with High School, Preparatory School or Two-Year College Contests.

(1) Recommendation. Incorporate the following portion of an official interpretation [Reference: 1/22/10, Item No. 1] into the legislation:

"The institution may not publicize the appearance of any specific prospective student-athletes nor may it use individual or team photographs of participating prospective student-athletes in any advertising activities."

(2) Effective Date. Immediate.

(3) Rationale. Incorporation of this part of the official interpretation will clarify the application of the legislation for advertising and promotional efforts for

collegiate contests held in conjunction with high school, preparatory school and two-year college contests to bring consistency across the membership when promoting these events in order to eliminate any perceived recruiting advantage. The remaining portion of the interpretation that permits an institution to advertise the event, as well as the names of the participating teams, through those media outlets normally used by the institution will remain as an official interpretation.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

h. Approval of Official Interpretation – Observation of Prospective Student-Athletes in Recreational Activities.

(1) Recommendation. Approve the following official interpretation:

"Observation of Prospective Student-Athletes in Recreational Activities. The NCAA Division III Management Council confirmed that for purposes of the tryout exception that permits coaching staff members to observe prospective student-athletes engaging in recreational activities, such observation shall only be permissible provided the facilities are available to all visiting prospective students generally." [Reference: Bylaw 13.11.2.1.1 (permissible observation of recreational activities)]

(2) Effective Date. Immediate.

(3) Rationale. This information was included in the 2010 Convention Legislation Question and Answer Guide. The committee believes it should be codified as an official interpretation to ensure the intended application of the legislation is formally recorded.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

i. Approval of Official Interpretation – Observation of Enrolled Student-Athletes in Nonorganized Sport-Specific Activities.

(1) Recommendation. Approve the following official interpretation:

"Observation of Enrolled Student-Athletes in Nonorganized Sport-Specific Activities. The NCAA Division III Management Council confirmed that for purposes of the athletically related activities exception that permits coaching

staff members to observe enrolled student-athletes engaging in nonorganized sport-specific activities (e.g., open gym); such observation shall only be permissible provided the facilities are open to the general student body, as opposed to a group of students that may include student-athletes." [Reference: Bylaw 17.02.1.1.1 (athletically related activities – exceptions)]

(2) Effective Date. Immediate.

(3) Rationale. This information was included in the 2010 Convention Legislation Question and Answer Guide. The committee believes it should be codified as an official interpretation to ensure the intended application of the legislation is formally recorded.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

j. Approval of Official Interpretation – Facility Monitoring as Part of Normal Employment Arrangement.

(1) Recommendation. Approve the following official interpretation:

"Facility Monitoring as Part of Normal Employment Arrangement. The NCAA Division III Management Council confirmed that for purposes of the tryout exception and the athletically related activities exception regarding observation of prospective and/or enrolled student-athletes:

(a) A coach may have interaction with the prospective or enrolled student-athlete that is necessary to stop a dangerous or unsafe activity; however, a coach is not permitted to instruct the prospective or enrolled student-athlete as how to properly perform the activity;

(b) The coach's job duties for facility monitoring must be properly documented in a manner consistent with all employees of the institution; and

(c) The coach's job duties for facility monitoring must be specifically noted, as opposed to a broad provision such as "other duties" as assigned, and observation of prospective or enrolled student-athletes is only permitted if it occurs in the specific facilities for which the coach has designed monitoring duties."

[References: Bylaws 13.11.2.1.1 (permissible observation of recreational activities) and 17.02.1.1.1 (athletically related activities – exceptions)]

(2) Effective Date. Immediate.

(3) Rationale. This information was included in the 2010 Convention Legislation Question and Answer Guide. The committee believes it should be codified as an official interpretation to ensure the intended application of the legislation is formally recorded.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

k. Approval of Official Interpretation – Contact with Prospective Student-Athlete on Day or Days of Competition or Practice.

(1) Recommendation. Approve the following official interpretation:

"Contact with Prospective Student-Athlete on Day or Days of Competition or Practice. The NCAA Division III Management Council determined that contact between a coach and a prospective student-athlete on the day or days of competition or practice is permissible only if:

(a) The contact occurred on the institution's campus;

(b) The prospective student-athlete's competition or practice occurred off the institution's campus or at a facility not typically used by the institution for practice or competition;

(c) The institution is not involved with the event in which the prospective student-athlete is a participant; and

(d) The coaching staff did not initiate the contact in any manner."

[References: Bylaw 13.1.4.2 (practice or competition site) and an official interpretation (8/11/93, Item No. 3)]

(2) Effective Date. Immediate.

(3) Rationale. During its September 21, 2009, meeting the committee considered the legislation in Bylaw 13.1.4.2 (practice or competition site) that prohibits contact restrictions on the day or days of competition in situations in which a prospective student-athlete makes contact with a coach on the day or days of competition. Specifically, the committee reviewed a fact scenario in which a prospective student-athlete was participating in a three-day event in the locale of the institution, the institution was not affiliated with the event, the coach

did not initiate the contact and the prospective student-athlete visited on the second day of the tournament. The committee believed that such contact is outside the scope of the legislation given the institution and coach were not involved or aware the prospective student-athlete intended to visit campus during the event, therefore, such an institution and coach should not be bound by the restrictions in the legislation in such circumstances. Finally, the committee believes the conditions detailed in the interpretation safeguard against potential abuses.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

l. Approval of Official Interpretation – Awarding Academic Credit for Athletics Participation.

(1) Recommendation. Approve the following official interpretation:

"Awarding Academic Credit for Athletics Participation. The NCAA Division III Management Council confirmed that an institution may award academic credit to student-athletes for participation in athletics, provided it is consistent with institutional policy for other extra- or co-curricular activities or is a course available to all students. Further, such credit may be used in determining full-time enrollment, including the 12-semester or quarter-hour requirement for competition, consistent with institutional policy." [Reference: Bylaw 14.1.8.1 (requirement for practice or competition)]

(2) Effective Date. Immediate.

(3) Rationale. The committee examined the issue of whether it is permissible for an institution to consider credits earned for athletics participation in satisfying the full-time enrollment requirement in order to compete. The committee recognized this as a matter of institutional integrity and discretion. Accordingly, the committee agreed that if the credit is awarded in a manner that is consistent for the general student body, or other segments of the student body on a basis unrelated to athletics, then institutional policy should determine how that credit is used and that no legislative authority exists to interpret a more restrictive position.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. Confirms that student-athletes are treated consistently with all students according to institutional policy.

m. Approval of Official Interpretation – Definition of Single-Sport Conference.

(1) Recommendation. Approve the following official interpretation:

"Definition of a Single-Sport Conference. The NCAA Division III Management Council confirmed that a single-sport conference is a conference that only sponsors one sport. A conference that sponsors one sport, but sponsors both men's and women's competition in that sport is a multisport conference and would not qualify for a single-sport conference waiver for purposes of automatic qualification for either the men's or women's competition. It would be permissible, however, to establish two separate single-sport conferences (i.e., men's sport conference, women's sport conference) for purposes of requesting a single-sport conference waiver in each sport." [Reference: Bylaw 31.3.4.3.2 (single-sport conference waiver)]

(2) Effective Date. Immediate.

(3) Rationale. The committee discussed the question of whether, for purposes of determining automatic qualification for championships, a conference that sponsors one sport but sponsors competition for both genders in that sport (e.g., men's and women's ice hockey) is considered a multisport conference or a single-sport conference. The committee reviewed a situation in which a conference that presently sponsors a men's sport, and receives a single-sport waiver for automatic qualification purposes, intends to sponsor the same sport for women. The committee agreed that adding a women's sport effectively resulted in the conference sponsoring two sports. Thus, the conference was no longer a single-sport conference but rather a multisport conference. The committee noted the fact that these are considered two separate sports for all other purposes (e.g., sports sponsorship, separate championships, separate playing rules) and, therefore, should not be considered the same sport only for this purpose. The committee noted, however, it would be permissible to create two single-sport conferences in order to request a single-sport waiver for each conference. This interpretation was shared with the NCAA Division III Membership Committee during its February 2010 meeting and that committee agreed with this interpretation.

(4) Estimated Budget Impact. Cost implications to establish a second single-sport conference.

(5) Student-Athlete Impact. None.

2. Nonlegislative Actions Items

- **Review Application of Hardship Waiver Legislation to Transfers**.

(1) Recommendation. Refer to the Student-Athlete Reinstatement Committee the application of hardship waiver legislation to transfers.

(2) Effective Date. Immediate.

(3) Rationale. During its February 11, 2010, meeting ILC reviewed a Division I official interpretation [Reference: 9/17/09, Item No. 1] and a Division II official interpretation [Reference: 10/31/97, Item No. 1-d] which provide greater flexibility to transfers regarding the application of hardship waiver legislation than a Division III official interpretation [Reference: 9/1/97, Item No. 3]. Specifically, the Division III interpretation requires that the legislation of the division in which the injury or illness occurred must be applied, while the Divisions I and II interpretations permits an institution to use either the legislation in which the injury or illness occurred or the division to which the student-athlete has transferred. The committee supports a modification be made in Division III to provide this same flexibility. In supporting a modification, the committee believes that transfers to Division III institutions should not be disadvantaged when compared to other divisions and that this restriction is not substantial enough to influence a student's decision to enroll at a member institution. During its March 17, 2010, conference call, however, the committee was informed that the Committee on Student-Athlete Reinstatement reviewed this same issue in the past year and believes the Division III interpretation should not change because they did not believe it was appropriate to factor in the potential status of a hardship waiver into a student-athlete's decision to transfer. After learning this information, ILC agreed to refer this issue back to the Committee on Student-Athlete Reinstatement prior to making a final recommendation to the Management Council in an effort to potentially reconcile the differing positions and to factor in the new hardship waiver legislation as a result of Proposal No. 2010-7.

(4) Estimated Budget Impact. None.

(5) Student-Athlete Impact. None.

INFORMATIONAL ITEMS

1. Update on Division III identity initiative and governance update. The committee received an update on the next phase of the Strategic Positioning Platform that includes activation plans and its use in policy discussion throughout the governance structure, including details on the different methods of activation such as additional videos, online tools, $1000 credit for institutions and conferences and messaging at NCAA championships. Additionally, the committee received an update on some key items within the division's strategic plan. Specifically, the committee was reminded that a primary emphasis this year is on presidential leadership which will include an examination of the current duties of both the Management Council and NCAA Division III Presidents Council, consideration of more involvement from the vice presidential groups (senior administrator to whom athletics reports) given the majority of institutions with this reporting structure and a review of current legislation with consideration to making certain bylaws division dominant to reflect the importance of certain items within the division's philosophy. Other priority items for the upcoming year include the drug education and testing pilot, the academic reporting pilot and the gender and diversity review.

2. Review committee policies and procedures. The committee approved its revised policies and procedures document.

3. Review recent Divisions I and II legislative actions. The committee reviewed Divisions I and II legislative actions from September 2009 through January 2010 for possible inclusion within Division III legislation. The committee made the following referrals to other committees for further review:

    a. Referred Division I Proposal No. 2009-71 to the NCAA Division III Committee on Student-Athlete Reinstatement for further review with general support of the concept presented;

    b. Referred Division I Proposal No. 2009-43 to the NCAA Division III Student-Athlete Advisory Committee for further review; and

    c. Referred to the Division III Management Council Playing and Practice Seasons Subcommittee the concept of decreasing the maximum contest limits for the sports of baseball and softball. This issue was raised after reviewing Division II's "Life in the Balance" legislative initiative. Decreasing the Bylaw 17 maximum contest limits and Bylaw 20 minimum contest requirements was a concept submitted for possible

legislation by the Division III membership during the 2010 legislative cycle, but it never received proper sponsorship to go forward for a vote at the 2010 Convention. Based on the concerns expressed at that time, the committee agreed this issue should be reviewed from a governance perspective and should start with the Playing and Practice Seasons Subcommittee for further review.

4. Review recent Division III educational columns. The committee reviewed educational columns in Division III issued from September 2009 to January 2010 and requested the following:

   a. Proposal No. 2010-3. The committee requested staff issue an interpretation regarding Question No. 6.

   b. Proposal No. 2010-5. The committee requested staff issue an interpretation regarding Question No. 2.

   c. Proposal No. 2010-6. The committee requested staff issue an interpretation regarding Question Nos. 4 and 6.

   d. Proposal No. 2010-7. The committee directed staff to include the table in the answer to Question No. 4 in the Manual via editorial revision.

   e. Proposal No. 2010-8. The committee requested staff issue an interpretation regarding Question No. 2.

5. Update on fundraising and designated funds discussion. The committee received an update on its recommendation to the Management Council on the issue of fundraising and designated funds. As noted in the joint Presidents Council and Management Council report from January 2010, the governance structure has agreed to take no action. The committee agreed on this approach and anticipates the membership sponsoring legislative proposals for the 2011 Convention.

6. Review official interpretation regarding ergometers. The committee directed staff to archive an official interpretation [Reference: 10/2/02, Item No. 1] regarding the use of ergometers in rowing. The committee noted this official interpretation is no longer necessary and should be archived given the elimination of the safety exception under Proposal No. 2004-64. As a result of Proposal No. 2004-64, in all sports, coaches are not permitted to be involved with a student-athlete's voluntary individual workout outside the playing season, regardless of

whether equipment related to the applicable sport is used. Therefore, the determination that an ergometer is not related to the sport of rowing as noted in the official interpretation is no longer necessary and only serves to confuse the membership in regard to voluntary individual workouts in the sport.

7. Review NCAA compliance forms. The committee reviewed draft versions of the 2010-11 NCAA compliance forms and recommended no changes.

Committee Chair: Lori Runksmeier (New England College)
Staff Liaisons: Amy Huchthausen, Academic and Membership Affairs
Jeff Myers, Academic and Membership Affairs