REPORT OF THE NCAA DIVISION III INTERPRETATIONS AND LEGISLATION COMMITTEE

ACTION ITEMS

1. Legislative Items.

a. 2013 NCAA Convention Legislation – Amateur Status – Before Initial, Full-Time Collegiate Enrollment – Prize Money Based on Team Performance.

(1) Recommendation. To sponsor legislation for the 2013 NCAA Convention to specify that before initial full-time collegiate enrollment, an individual may accept payment based on his or her team's place finish or performance, or given on an incentive basis (e.g., bonus) from a team, provided the combination of such payments and expenses provided to the individual does not exceed his or her actual and necessary expenses to participate on the team.

(2) Effective Date. August 1, 2013.

(3) Rationale. Prior to initial full-time collegiate enrollment a prospective student-athlete may individually compete in an open event and receive prize money based on his or her place finish or performance. Such prize money is not limited to actual and necessary expenses. Prospective student-athletes that compete on a team are not afforded the same opportunity to receive prize money based on performance. NCAA Divisions I and II permit prospective student-athletes to receive prize money based on a team's performance without jeopardizing their amateur status. Consequently, prospective student-athletes in team sports are being put in a difficult situation. The prospective student-athlete on a winning team may accept prize money while his teammate who is considering a Division III institution could not accept the money. It is not equitable to treat the team sport prospective student-athletes differently, nor is it reasonable for a prospective student-athlete to discern these amateurism nuances between divisions. Consistency as well as fairness for prospective student-athletes justifies allowing receipt of prize money based on a team's performance, so long as the prize money does not exceed actual and necessary expenses.

(4) Budget Impact. None.

(5) Student-Athlete Impact. May result in fewer amateurism concerns at time of enrollment.

b. 2013 NCAA Convention Legislation – Committees – Removal of NCAA Division III Bylaw 21.

(1) Recommendation. To sponsor legislation for the 2013 Convention to remove NCAA Division III Bylaw 21 from the NCAA Division III Manual and move its provisions to a committee handbook to be overseen and maintained by the NCAA Division III Management Council.

(2) Effective Date. August 1, 2013.

(3) Rationale. This proposal would eliminate Bylaw 21 in its entirety from the Division III Manual and move the provisions to a committee handbook, which would be maintained on the NCAA website and would be readily available for the membership and governance structure to review as necessary. The Management Council would continue to maintain oversight authority regarding the administrative functions related to the management of the Division III governance substructure and Division III representation on Association-wide and common committees. This proposal would not substantively change any current committee policies and procedures, such as those that set forth the selection, composition, duties, terms of office and operations of the various committees. However, the Management Council would have the flexibility to change elements related to committees as deemed necessary without the need to propose legislation, which would, in turn, reduce the number of proposals in the legislative cycle and the related bureaucracy. A review of legislative history indicates the membership has readily adopted proposals related to committees. Since 1997, 90 proposals have been sponsored with 88 being adopted (86 as noncontroversial), zero defeated, one rendered moot and one withdrawn. Finally, this proposal supports efforts to simplify the Manual and focus on the most strategically important matters.

(4) Budget Impact. None.

(5) Student-Athlete Impact. None.

c. Noncontroversial Legislation – Awards, Benefits and Expenses – Expenses Provided by The Institution For Practice and Competition – National Team Tryouts – Not More Than Two Events.

(1) Recommendation. To approve in concept noncontroversial legislation to permit an institution to provide actual and necessary expenses for a

student-athlete to participate in not more than two national team tryout competition events, including events from which participants are selected for another tier of tryout competition or events from which final selections are made for the national team that will participate in the Olympic Games, Pan American Games, World Championships, World Cup or World University Games.

(2) Effective Date. Immediate.

(3) Rationale. Current legislation permits an institution to provide actual and necessary expenses for a student-athlete to participate in only one national team tryout event. However, the national team selection process for many sports includes more than one round (tier) of tryout events, which may take place at different sites and on different dates. As a result, a student-athlete who is successful in the first tier may be required to incur the financial burden to continue through the additional tiers or withdraw from the tryout process prior to reaching the final tryout. This proposal would allow an institution to pay for a student-athlete to participate in a second (or later) round in the selection process. In addition, there are other sports that provide more than one opportunity in which a student-athlete may compete in an effort to advance in the selection process if the student-athlete fails to advance from the first round (tier). This proposal would allow an institution to pay for a student-athlete to participate in a second event on the same tier (if the student-athlete failed to advance from the first event). This proposal would allow student-athletes greater access to the current selection processes for international competition.

(4) Budget Impact. Institutions with eligible student-athletes may bear the expense of additional national team tryouts.

(5) Student-Athlete Impact. Varies.

d. Noncontroversial Legislation – Amateurism-Promotional Activities – Prospective Student-Athlete's Participation in Institutional Fundraisers or Promotions – De Minimis.

(1) Recommendation. To approve in concept noncontroversial legislation to identify that a violation of Bylaw 12.5.1.1.6 (prospective student-athlete's participation in institutional fundraisers or promotions) is a de minimis violation.

(2) Effective Date. Immediate.

(3) Rationale. All Bylaw 12 violations affect eligibility unless there is specific language to the contrary. Because there is no specific language to the contrary, Bylaw 12.5.1.1.6 affects a prospective student-athlete's eligibility. A student-athlete, however, who unknowingly participates in an impermissible institutional fundraiser does not have his or her eligibility affected. The violation is de minimis (meaning it is an institutional violation but does not affect the student-athlete's eligibility). It is not equitable in this type of situation to hold that a prospective student-athlete who participates in an institutional fundraiser suffers a stiffer penalty than a student-athlete. For that reason, the committee determined that violations of Bylaw 12.5.1.1.6 should be de minimis.

(4) Budget Impact. None.

(5) Student-Athlete Impact. Student-athletes that participated in an impermissible fundraiser as a prospective student-athlete would not have to go through reinstatement as a condition of participation.

e. Noncontroversial Legislation – Recruiting – Transportation – Transportation to Enroll From Any Bus or Train Station or Airport.

(1) Recommendation. To approve in concept noncontroversial legislation to permit institutional staff members to provide transportation from any bus or train station or airport to campus on the occasion of the student-athlete's initial arrival at the institution to attend class.

(2) Effective Date. Immediate.

(3) Rationale. Current legislation allows transportation from the nearest bus or train station or major airport, which can become a challenge when there are different stations and airports in close proximity to the institution. By amending the legislation, the burden of monitoring which location a prospective student-athlete is arriving at on the occasion of his or her initial enrollment will be eliminated.

(4) Budget Impact. Minimal, depending upon extent to which the institution provides transportation to enroll.

(5) Student-Athlete Impact. May provide greater flexibility regarding means in which a prospective student-athlete may arrive to campus.

f. Noncontroversial Legislation – Amateurism – Awards and Benefits – Expenses for Practice and Competition – Expenses for Practice on Extended Road Trip – Practice en Route from Campus to Competition Site.

(1) Recommendation. To approve in concept noncontroversial legislation to permit an institution to provide expenses for practice on an extended road trip en route to the first competition site.

(2) Effective Date. Immediate.

(3) Rationale. Current legislation permits an institution to provide practice expenses on an extended road trip only on a direct route between two competition sites. Consequently, a team that leaves its campus for a spring trip may not incur expenses associated with practice until the team reaches the locale of the competition site. Therefore, if a golf team stops at a golf course on a direct route between campus and the first competition site, the institution may not pay for the team to play a practice round of golf. The student-athletes may pay the expense, but the institution may not. The committee agreed that the rationale for the current legislation was to prohibit strictly training trips and ensure that extended road trips are tied to competition. The committee determined that an institution could pay practice expenses and still uphold this rationale so long as the practice occurred at a location on a direct route between campus and the competition site.

(4) Budget Impact. Potential additional costs for practice associated with extended road trips.

(5) Student-Athlete Impact. Potentially could have more practice expenses paid for by the institution.

g. Incorporation of Official Interpretation – Uniformity of Participation Awards.

(1) Recommendation. To approve the incorporation of the following official interpretation [Reference: 7/13/11, Item No. 2-c] into the legislation:

Uniformity of Participation Awards (III). The NCAA Division III Interpretations and Legislation Committee determined that a member institution, conference or other approved agency may provide different participation awards based on the year or class (e.g., freshman, sophomore, first year participant, second year participant) of a student-

athlete, provided the awards are uniform for all recipients within a given year or class. [Reference: NCAA Division III Bylaw 16.1.2 (uniformity of awards) and a staff interpretation (12/13/91, Item No. e, which has been archived)]

(2) Effective Date. Immediate.

(3) Rationale. The committee believes the official interpretation should be incorporated into the legislation to clarify the flexibility institutions have regarding participation awards.

(4) Budget Impact. None.

(5) Student-Athlete Impact. None.

h. Incorporation of Official Interpretation – Administration of Hardship Waiver.

(1) Recommendation. To approve the incorporation of the following official interpretation [Reference: 2/4/11, Item No. 2] into the legislation:

Administration of Hardship Waiver (III). The NCAA Division III Management Council determined that in applying the hardship waiver legislation to a student-athlete who suffers an injury or illness while attending an NCAA Division I or Division II institution and later transfers to a Division III institution, the legislation of the division in which the injury or illness occurred or the Division III legislation may be used. The application of a particular division's legislation must include all the applicable elements of that division's legislation, as opposed to selected elements of the legislation of each division. [Reference: Bylaw 14.2.5 (hardship waiver) and official interpretation (Reference: 9/17/97, Item No. 3) which has been archived]

(2) Effective Date. Immediate.

(3) Rationale. The committee believes the official interpretation should be incorporated into the legislation to better inform the membership on how to apply hardship legislation to transfer student-athletes.

(4) Budget Impact. None.

(5) Student-Athlete Impact. There may be more accurate application of a provision that provides greater flexibility for student-athlete to receive hardship waivers.

i. Approval of Official Interpretation – Definition of a Recruiting or Scouting Service.

(1) Recommendation. To approve the following official interpretation:

Definition of a Recruiting or Scouting Service (III). The academic and membership affairs staff confirmed that a recruiting or scouting service includes any individual, organization, entity or segment of an entity that is primarily involved in providing information about prospective student-athletes. This definition includes, but is not limited to any service that provides information only to paid subscribers, any service that is only available to a select group of individuals (e.g., coaches), regardless of whether there is a charge associated with the service, and any service that provides information to the public free of charge; however, this definition does not include any individual, organization or entity or segment of an entity that provides information about prospective student-athletes incidental to its primary purpose and is generally available to the public (e.g., news media). [References: NCAA Division III Bylaws 13.12.2.4.1 (camp/clinic providing recruiting or scouting service) and 13.14.3 (recruiting or scouting services)]

(2) Effective Date. Immediate.

(3) Rationale. The committee reviewed the staff interpretation and agreed to elevate it to an official interpretation.

(4) Budget Impact. None.

(5) Student-Athlete Impact. None.

2. Nonlegislative Items.

a. Referral to NCAA Division III Championships Committee – Informational Updates From Playing Rules Oversight Panel on Issues Relating to Division III.

(1) Recommendation. To refer to the NCAA Division III Championships Committee to determine if there should be legislation requiring the NCAA Playing Rules Oversight Panel to provide informational updates regarding Division III specific issues to the Championships Committee.

(2) Effective Date. Immediate.

(3) Rationale. During the restructuring of the Division I governance structure, it was specified that the Playing Rules Oversight Panel would report to the NCAA Division I Championships/Sports Management Cabinet regarding issues relating to Division I (see Bylaw 21.7.5.5.4) for sharing of information only. The change did not amend the legislation for the Playing Rules Oversight Panel in Bylaw 21.1. Division II recently passed similar legislation, leaving Division III as the only division that does not have similar language requiring the Playing Rules Oversight Panel to report issues related to Division III. The committee reviewed the recent Division II legislation and determined that the Championships Committee is the appropriate body to provide comment and recommend similar legislation if appropriate.

(4) Budget Impact. None.

(5) Student-Athlete Impact. None.

b. Referral to the NCAA Division III Membership Committee – Minimum Participants required to Complete a Competition for Purposes of Counting the Competition for Sports Sponsorship.

(1) Recommendation. To refer to the NCAA Division III Membership Committee the policy set forth in the following official interpretation [Reference: 6/16/94, Item No. 5] for additional review:

Minimum Participants Required to Complete Institution's Competition. The minimum number of participants required to count a competition for purposes of satisfying sports-sponsorship requirements actually must complete the competition. [References: Bylaws 20.9.3.3.1, 20.10.3.5.1 and 20.11.3.2.1 (completion of contests)]

(2) Effective Date. Immediate.

(3) Rationale. The committee reviewed the official interpretation and determined the Membership Committee should review and determine if

this is the appropriate position for the division or the underlying legislation should be amended to reflect a more flexible position.

(4) Budget Impact. None.

(5) Student-Athlete Impact. None.

c. Referral to the Championships Committee – Questions regarding Major Junior A Hockey.

(1) Recommendation. To refer to the Championships Committee for their consideration of having the NCAA Division II Men's Ice Hockey Committee review and provide comment regarding the following potential legislative options:

(a) Proposing legislation to extend the organized competition legislation for Major Junior to apply to Junior A as the trend of that league is becoming more competitive; or

(b) Proposing legislation to extend the organized competition legislation for Major Junior to any hockey competition in order to address Junior A and all other foreign leagues.

(2) Rationale. The committee received a report from the NCAA Agents Gambling and Amateurism staff regarding the structure of junior hockey in Canada, the United States and Europe. The committee also reviewed the legislative history regarding Major Junior Hockey as well as a comparison of the rule in the other two divisions. Based on that information, the committee considered several options for amending the current Division III legislation. Prior to making a formal recommendation to Management Council, the committee wanted to receive feedback from the Men's Ice Hockey Committee regarding the two potential legislative considerations identified above. The two legislative considerations are derived from two key points: (a) Junior A [a level below Major Junior] is becoming more competitive as hockey players talented enough to participate in Major Junior are choosing Junior A because they do not want to sacrifice potential collegiate eligibility by participating in Major Junior; and (b) the committee was concerned with the fairness of treating Major Junior differently than foreign leagues that may be just as competitive. Seeking feedback from the Men's Ice Hockey Committee is the next step in getting a better understanding regarding the state of junior hockey.

(3) Effective Date. Immediate.

(4) Budget Impact. None.

(5) Student-Athlete Impact. None.

d. Voting Method for 2012 Convention Proposals.

(1) Recommendation. Designate votes for all proposals at the 2012 Convention to be taken using the roll-call method, regardless of grouping (presidential or general).

(2) Effective Date. Immediate.

(3) Rationale. The committee discussed voting methods noting that roll-call voting has historically only been designated for the presidential grouping. While a mechanism exists for the membership to consider changing the voting method on the Convention floor, the committee agreed that since the electronic voting units and technology permit the recording of all votes in an expeditious manner, the committee agreed that votes for all proposals (presidential and general grouping) should be taken using the roll-call method as it provides transparency for the membership.

(4) Budget Impact. None.

(5) Student-Athlete Impact. None.

INFORMATIONAL ITEMS

1. Update on Governance Issues. Members of the staff provided an update on the primary topics within the Division III governance structure for the 2011-12 year. The topics included: year two of the identity activation, Division III Week, Academic All-America program, presidential leadership, drug education, academic reporting, and an overall evaluation of Division III programs and services ahead of the upcoming budgeting process. Additionally, the committee was provided an update on the financial aid reporting process and the NCAA Division III Committee on Infractions' shift from education to enforcement within the penalty phase of the process. Finally, the committee received an update on the Division I Presidents' summit and restructuring discussions.

2. **Recommendation for Staff Interpretations.** The committee reviewed recently issued Division I and Division II official interpretations for Division III consideration. The committee declined to make any of these interpretations Division III official interpretations but recommended the following two interpretations [Reference: (8/12/11, Item No.3); and (5/23/11, Item No. a)] should be issued as Division III staff interpretations:

   Delayed Enrollment for Junior National/International Competition (I). The committee confirmed that the exception to the delayed enrollment legislation for participation in national/international competition (e.g., Olympic Games, World Championships, National Team) applies only to the events specified in the legislation and does not extend to junior level competition (e.g., Youth Olympic Games, U20 World Cup, Junior National Team) that may be associated with the specified events. [Reference: NCAA Division I Bylaw 14.2.3.2.1.1 (exception -- national/international competition) and a staff interpretation (5/16/11, Item No. b), which has been archived]

   Institution's Team Selected as a National Team (II). The NCAA Division II Interpretations Subcommittee of the Legislation Committee determined that an institution's team may be selected to represent the United States as a national team pursuant to the legislated national-team criteria. [References: NCAA Division II Bylaws 14.7.5.1 (exceptions to outside-competition regulations -- all sports), 14.7.5.3 (national-team criteria), 17.29.2 (outside-team tours) and 17.29.2.1 (institutional foreign-tour limitations)]

3. **Review of 2012 NCAA Convention Division III Proposal No. 2-4 (Recruiting – Permissible Electronic Transmissions).** The committee took no position on this proposal as it could not come to a majority committee position regarding the use of social media. The committee does, however, support the use of text messaging and therefore prefers the approach to the issue as presented by the governance structure in 2012 NCAA Convention Division III Proposal No. 2-5 (Recruiting – Electronic Transmissions – Allowing Text Messaging). In discussing arguments in favor of allowing social media, the committee noted the proposal would eliminate a recruiting disadvantage that impacts Division III institutions when Division III legislation is compared to the current rules in Divisions I and II. The committee also noted the proposal would align athletics recruiting practices with what many institutions' admissions departments are already doing. Committee members also noted those coaches who might recruit excessively via social media and text messaging would do so at their own peril. The committee acknowledged the proposal could create undue pressure for prospective student-athletes in that even if given the option to "opt out," a prospect would be unlikely to tell a coach at an institution he or she wants to attend that the coach is communicating excessively. The committee also noted for many prospective student-athletes, being recruited via any technological means beyond email, fax or text messaging is regarded as an intrusion on

those individuals' personal space. Based on these competing concepts, the committee took no position on this proposal.

4. **Review of Proposal No. 2-6 (Eligibility – Hardship Waiver – Practice after Injury).** The committee opposed this proposal. The committee expressed concern with the detrimental impact on student-athletes. Further, the committee questioned the clarity of the prohibition set forth in the proposal and the potential inconsistent application based on this lack of clarity.

5. **Review of Proposal No. 2-7 (Playing and Practice Seasons – Required Day Off – Voluntary Strength and Conditioning Activities Prohibited During Required Day Off).** The committee opposed the proposal as written. The committee also discussed if the proposal were split into two parts (in-season and out-of-season), that a prohibition on in-season workouts with certified strength and conditioning coaches on the mandatory day off would be supported. The committee agreed that by requiring the day off outside the season, the institution would be required to monitor participation outside the season which is not currently permitted. Consequently, this would result in more oversight outside the playing season, resulting in the opposite of the intended effect of this proposal. Ensuring, however, that student-athletes are not engaging in a workout with the strength coach during the mandatory day off during the season has merit and should be supported.

6. **Review of Proposal No. 2-8 (Playing and Practice Seasons – General Playing Season Regulations – Postseason Activities – Exempting One Postseason Championship From The 18 Or 19 Week Declared Playing Season).** The committee opposed this proposal. The committee expressed concern with extending the playing season by allowing additional exemptions to the playing season. The committee also cited cost considerations associated with additional postseason opportunities and increased pressure for institutions to participate in postseason championship events as further basis to oppose this proposal.

7. **2012 Convention Question and Answer Guide.** The committee reviewed each 2012 Convention proposal and offered potential questions for staff to include in the Convention question and answer guide.

8. **2012 Convention Proposal Grouping.** The committee reviewed potential groupings and vote order for the 2012 Convention proposals. The committee's recommendations are included in the attached addendum.

9. **Text Messaging Club Teams.** The committee reviewed whether Division III college coaches who were also club team coaches could text message prospective student-athletes who were members of the club team for purposes of communicating club team

information. The committee agreed this is permissible as it is not recruiting communication. To be permissible, the substance of the text would have to be related to the club team and not for any other communication. The committee instructed staff to issue a staff interpretation clarifying this question for the membership.

10. **Transfer Exception for a Student-Athlete who is Academically Ineligible but Has Not Used a Season of Participation.** The committee examined the current transfer legislation that permits a student who is academically ineligible to transfer and be immediately eligible at the certifying institution if he or she has not previously used a season of participation at a Division III institution or participated in intercollegiate athletics at a non-Division III school. The committee noted this provides an opportunity for a student to participate during the nontraditional segment at a Division III institution and transfer to another Division III institution and be immediately eligible despite being academically ineligible at the original institution. The committee reviewed feedback from the NCAA Division III Student-Athlete Advisory Committee. The Interpretations and Legislation Committee tabled the issue and requested the staff gather additional information.

11. **Hardship Waiver – First Half of Season – Medical Documentation.** The committee reviewed an issue raised during the June Division III Commissioners Association meeting that centers on whether a student-athlete must see a physician prior to completion of the first half of the season to satisfy the hardship waiver requirements. The committee agreed as long as the medical documentation shows that the student-athlete saw a physician at or near the time of injury that a visit to a physician need not occur prior to completion of the first half of the season. The committee noted the legislation in Bylaw 14.2.5-(a) requires only the illness or injury itself must occur in the first half of the season. The committee directed the staff to issue educational material clarifying the issue.

12. **Study Abroad/Foreign Exchange Considerations.** The committee reviewed various considerations that must be taken into account when determining a student-athlete's eligibility to participate in athletics in conjunction with participation in a study abroad or foreign exchange program. The committee agreed that a student-athlete who is participating in a study abroad or foreign exchange program is not intended to be considered a transfer student; therefore, the legislation should be simplified to permit the student-athlete the opportunity to participate in athletics. The committee also discussed whether and how the seasons of participation legislation should apply to such student-athletes and agreed to table the discussion. The committee acknowledged its intent to recommend Management Council sponsor 2013 NCAA Convention legislation and requested that the staff gather additional information from the Division III sports committees to assist in preparing a recommendation.

13. Examination of Bylaw 12.1. The committee conducted a review of the Division III amateurism legislation to assess whether current regulations are appropriate for individuals both prior to and after initial full-time collegiate enrollment. The committee agreed that camp employment and fee for lessons should be included in Bylaw 12.1.3.1 in that both activities are permissible and currently are not listed as specific permissible activities. The committee instructed staff to include these provisions editorially. This review also resulted in the proposed legislative action item set forth in 1a.

14. Review Educational Initiatives Calendar. The committee reviewed the staff's educational initiatives calendar and offered suggestions, including a "how to" on the Legislative Services Database for the Internet (LSDB*i*). Additionally, the committee suggested the staff consider including a quarterly update on recently released educational columns within the Division III Monthly Update.

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Staff Liaisons: Amy Huchthausen, Academic and Membership Affairs
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