



June 13, 2014

Dr. Nathan Hatch  
Division I Board Steering Committee on Governance  
National Collegiate Athletic Association  
P.O. Box 6222  
Indianapolis, Indiana 46206-6222

Dear Dr. Hatch:

The American Athletic Conference concluded its Annual Meeting on May 30, during which our membership had extensive discussions about the proposed governance model. As you will recall, we addressed the Steering Committee's question about Board composition in a letter to you dated May 15, 2014, and this letter responds to the Steering Committee's request for comments to the additional topics described below and also discusses several miscellaneous topics we feel are important to a successful conclusion to the governance redesign process.

#### Majority Vote Required for Autonomous Legislation

We believe the determination of the threshold required for passage of autonomous legislation by the five equity conferences should be made by the Steering Committee in conjunction with those five conferences.

#### Application of Autonomous Legislation to the Other 27 Conferences

As we stated in our previous letter, we do not feel it is accurate or positive to portray the conference landscape as five equity conferences and the other 27. Comprising half of FBS football, we feel strongly that the distinction should be ten FBS conferences and 22 FCS/Division I Conferences. We remain concerned about any portrayal that creates a perception of a separate subdivision that would harm our branding and status as an FBS Conference.

With respect to legislation adopted through the autonomous system, there should not be any matters that would require additional action by the other conferences before implementation. If "permissive" legislation is passed in an autonomous area, that legislation should automatically be available to all Division I conferences and there should be no separate or additional requirements in order for those conferences to adopt it. Legislation adopted by the five equity conferences through the autonomous system should be available to all institutions, and each conference should have the ability to determine how its individual schools may implement (or not implement) a particular rule. We also believe that there should be a mechanism by which our group of five and the FCS/Division I conferences would be consulted and would be able to provide meaningful input regarding legislation to be proposed in the autonomous areas. This would include the opportunity to suggest proposed legislation as well as to provide comments prior to any vote.

## Council

We understand that the new Council is intended to be the principal group below the Board of Directors voting on matters related to shared-governance legislation, championships and policy. It is, therefore, critical that the substructure created to assist the Council be broad-based and include personnel who have the experience, expertise and judgment to enable the Council to make good decisions. Our suggestions to ensure competent and efficient assistance and advice for the Council are as follows.

- a. The establishment of a body that thoroughly examines any proposed legislation and advises the Council prior to its vote. This group should include individuals who have appropriate experience and expertise in reading, interpreting and applying rules on a daily basis.
- b. If ad hoc and/or working groups are utilized in lieu of standing committees, the staffing process should be transparent, fair and available to all individuals with appropriate experience. In addition, should discussions focus on specialized areas, such working groups should include individuals with appropriate expertise in those areas. For example, if a group is formed to review financial aid legislation, the group should include financial aid officers who understand NCAA, institutional and federal financial aid rules.

As a related matter, we feel that there should be equal representation for all ten FBS conferences on any governance body that provides for guaranteed representation for the equity five conferences. For example, if a legislative committee does not include representation for every conference, but includes guaranteed representation for the equity five conferences, then guaranteed representation should be extended to all ten FBS conferences.

The following are our observations and suggestions regarding several other items affecting the redesign model:

### Entry Into and Exit from the Five Conference Group

The Steering Committee report does not discuss a process or criteria for adding or removing conferences from the autonomy group. As we believe that this is an extremely important issue, we would urge the Steering Committee to address it in its report to the Board of Directors. As it is important for conferences to have an avenue by which to move into the autonomy group, and because changed circumstances may also warrant an exit from such group, it should be made explicit that mobility in either direction is possible. The Steering Committee and the Board also should develop criteria, including a performance and merit-based model, that would help guide decisions as to future membership in the autonomous group of conferences. Based on the rationale for providing autonomy set forth in the Steering Committee's report, such criteria could include a conference's demonstrated willingness and ability to meet the needs and expectations of its student-athletes based on its increased resources, its competitiveness at the highest levels, its comparative position when analyzing reasonable criteria such as media exposure and sources of revenue, and the similar scrutiny it may receive with respect to such nationally visible and important issues as enforcement, transfer policies and national governance concerns. Decisions as to such entry and exit could be made by a majority vote of the Board of Directors or the Division I membership.

## Mandatory Legislation

The Steering Committee should review those areas included in the autonomous category list that may not lend themselves to being "permissive" legislation. For example, allowing student-athletes to use their names or likenesses in non-athletic related career pursuits, (Career Pursuits, NCAA Bylaw 12.5), or changes to the rules related to the terms or conditions of awarding athletic aid (as opposed to full cost-of-attendance), (Financial Aid, NCAA Bylaw 15.3 – 15.3.5.2) do not appear to fit the "permissive" concept. Because these areas are not related to benefits provided to student-athletes, there would be implications for institutions not in the autonomous group. There should be a discussion as to which categories of autonomy would be more appropriate as mandatory rather than permissive.

## Previously Deregulated Legislation

There are also several areas of the autonomy list that have already been deregulated, and institutions currently have the discretion to provide such benefits to student-athletes (e.g., providing health insurance, lifetime education benefits, addressing the nutritional needs of student-athletes). The Steering Committee should consider providing some clarification or rationale for keeping these deregulated areas on the autonomy list so that it is clear to the membership whether the equity five conferences have plans for changing such legislation in the future.

## Shared Governance

As stated in the Steering Committee's report, "*Autonomous legislation is designed to allow permissive use of resources or to otherwise enhance the well-being of student-athletes by any member, to advance the legitimate educational or athletics-related needs of student-athletes.*"

Our position has been that a category may be included in the autonomy list if it relates to financial benefits to enhance student-athlete welfare or if it disproportionately affects the equity five conferences. Categories that directly affect competitive equity on the field or court should remain subject to shared governance. Our conference and others outside the equity five conferences compete at an elite level and are successful in national competition. The concept of autonomy was not created to affect the competitive balance that now prevails.

In reviewing the remaining items and in taking a broad view of governance, we believe that Transfer Eligibility (NCAA Bylaw 14.5), which is currently included as an autonomous category, should instead be subject to shared governance for all Division I conferences, as it does not meet the stated rationale for inclusion as autonomous legislation.

In addition, shared governance should include areas that directly affect competitive equity on the field or court as well as the areas listed below which are not currently included in the autonomous categories set forth in the Steering Committee report, as they do not meet the stated rationale for autonomy.

1. Access to championships
2. Revenue distribution
3. Scholarship limitations for any sport
4. Athletic and academic eligibility standards
5. Divisional membership requirements
6. Recruiting rules

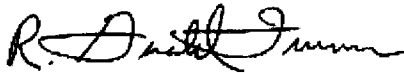
7. The process for determination of future areas of autonomy

Interpretation of Autonomous Legislation

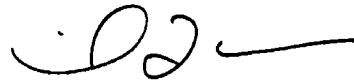
Some commissioners of the equity five conferences have stated publicly that they would like to have the ability to interpret, waive and enforce the rules passed under the autonomy system. The Steering Committee should consider making a recommendation as to the processes by which autonomous legislation may be interpreted, waived and enforced, and we strongly believe that these processes should be available, consistent and fair to all the institutions that adopt the autonomous legislation.

As we stated in our previous letter, we appreciate the excellent work that the Steering Committee and the full Board have done and are doing in the governance redesign process, and we look forward to a successful resolution late this summer that meets the needs of our student-athletes and our institutions in the years to come.

Sincerely,



Dr. R. Gerald Turner  
President, Southern Methodist University  
Chair of the American Athletic Conference  
Board of Directors



Michael L. Aresco  
Commissioner, American Athletic Conference

cc: NCAA Board Steering Committee  
NCAA Board of Directors  
Mark Emmert, President, NCAA  
Donald Remy, Executive Vice President of Law, Policy and Governance  
and Chief Legal Officer, NCAA  
David Berst, Vice President for Division I, NCAA  
Jean Frankel, President, Ideas for Action  
Jackie Campbell, Director of Division I, NCAA  
Britton Banowsky, Commissioner, Conference USA  
Jon Steinbrecher, Commissioner, Mid-American Conference  
Craig Thompson, Commissioner, Mountain West Conference  
Karl Benson, Commissioner, Sun Belt Conference  
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