



**REPORT OF THE
NCAA DIVISION I PRESIDENTIAL FORUM
APRIL 30, 2019, MEETING**

ACTION ITEMS.

- None.

INFORMATIONAL ITEMS.

1. **Discussion on Academic Misconduct Concepts.** The NCAA Division I Presidential Forum received an update on the academic misconduct discussions by the NCAA Division I Presidential Forum Steering Committee since the January Presidential Forum meeting. The Forum discussed concepts identified by the Steering Committee. Based on its discussion, the Forum agreed to seek membership feedback on four concepts. Specifically, the Forum requests that conferences and select governance committees provide feedback on the concepts listed below. Additional background and explanation of the concepts is included in the Attachment to this report, which is the document that was provided to the membership for review and comment.

Concept 1: Adopt legislation to add an overarching bylaw that would capture instances of systemic, willful disregard for academic integrity as it pertains to student-athlete eligibility and fair competition. This approach could include some type of presidential review before charging this provision.

Concept 2: Adopt legislation to improve the overall clarity and reinforce the intended application of the academic misconduct legislation adopted in 2016.

Concept 3: Provide institutions with “best practices” to help prevent academic integrity issues involving student-athletes.

Concept 4: Allow the legislation adopted in 2016 and the new tools created as a result of the Commission on College Basketball’s recommendations to more fully play out before seeking alternative solutions.

After input and feedback has been received from conferences and key governance committees, the Steering Committee will review the comments and provide a report to the NCAA Division I Board of Directors in August. The Board of Directors will review the recommendations and may ask the NCAA Division I Council to sponsor legislation for the 2019-20 cycle. Legislation that is introduced will be vetted throughout the cycle and could be considered for vote by the Council in 2020.

2. **Division I Governance Structure Goals and Key Presidential Initiatives.** The Presidential Forum received a reminder of its role in serving to assist the Board of Directors in accomplishing its strategic mission in the Division I governance structure and to ensure the NCAA core value involving presidential leadership of intercollegiate athletics at the campus, conference and national level is achieved. As the primary presidential advisory governance body to the Board of Directors, the Forum will be asked to engage in reviews and discussions on major strategic issues as the Board of Directors continues to focus on its Strategic Areas of Emphasis for 2018-2023.
3. **NCAA President's Report.** The Presidential Forum received a report from NCAA President Mark Emmert regarding current issues, including the ongoing implementation of college basketball reforms, the appointment of independent members of the NCAA Board of Governors, sports wagering, and a review of esports.
4. **Legal Update.** The Board of Directors received a privileged and confidential update from Scott Bearby, vice president of legal affairs, related to ongoing legal matters.
5. **Report of the January 23 NCAA Division I Presidential Forum Meeting.** The Presidential Forum approved the report of its January meeting. (*Unanimous voice vote.*)

Presidential Forum chair: Franklin Gilliam, The University of North Carolina at Greensboro
Staff Liaisons: Diane Dickman, Law, Policy and Governance
Jenn Fraser, Law, Policy and Governance
Kevin Lennon, Law, Policy and Governance
Todd Petr, Research

Division I Presidential Forum April 30, 2019, Meeting
Attendees:
John Bravman, Bucknell University; Patriot League.
Rita Cheng, Northern Arizona University; Big Sky Conference.
David DeCenzo, Coastal Carolina University; Sun Belt Conference.
Patrick Gallagher, University of Pittsburgh; Atlantic Coast Conference.
Jerome Gilbert, Marshall University; Conference USA.
Frank Gilliam, The University of North Carolina at Greensboro; Southern Conference.
Brian Hemphill, Radford University; Big South Conference.
Renu Khator, University of Houston; American Athletic Conference.
Wendy Libby, Stetson University; Atlantic Sun Conference.
Jere Morehead, University of Georgia; Southeastern Conference.
Brian Mueller, Grand Canyon University; Western Athletic Conference.
Philip Oldham, Tennessee Technological University; Ohio Valley Conference.
Mary Papazian, San Jose State University; Mountain West Conference.
Carol Quillen, Davidson College; Atlantic 10 Conference.
Gary Roberts, Bradley University; Missouri Valley Conference.
Kim Schatzel, Towson University; Colonial Athletic Association.
Michael Schill, University of Oregon; Pac-12 Conference.
Phil Schubert, Abilene Christian University; Southland Conference.
Ashish Vaidya, Northern Kentucky University; Horizon League.
Kim Wilcox, University of California, Riverside; Big West Conference.
David Wilson, Morgan State University; Mid-Eastern Athletic Conference.
Greg Woodward, University of Hartford, America East Conference.
Absentees:
Victor Boschini, Texas Christian University; Big 12 Conference.
James Danko, Butler University; Big East Conference.
James Donahue, Saint Mary's College of California; West Coast Conference.
Sharon Gaber, University of Toledo; Mid-American Conference.
Andrew Hugine, Alabama A&M University; Southwestern Athletic Conference.
Judy Olian, Quinnipiac University; Metro Atlantic Athletic Conference.
Christina Paxson, Brown University; The Ivy League.
Jack Thomas, Western Illinois University; The Summit League.
Malachi Van Tassell, Saint Francis University (Pennsylvania); Northeast Conference.
NCAA Staff Liaisons in Attendance:
Diane Dickman, Jenn Fraser, Kevin Lennon and Todd Petr.
Other NCAA Staff Members in Attendance:
Scott Bearby, Emily Capehart, Jon Duncan, Mark Emmert, Jennifer Henderson, Michelle Hosick, Donald Remy, Adam Replogle, Bridget Rigney, Dave Schnase, Geoff Silver, Kathy Sulentic, Joyce Thompson, Cari Van Senus, Wendy Walters, Stan Wilcox, and Leeland Zeller.

Defining the NCAA's Role in Addressing Academic Violations

Request for Membership Feedback Regarding Concepts Under Consideration

Request for membership input: The purpose of this document is to ask every Division I conference and key governance groups to discuss the following information and provide one conference or committee perspective not later than July 1 to help inform future discussions and final recommendations. Please use the feedback form provided.

WHY THIS IS IMPORTANT

Academic integrity is of paramount importance in higher education and is among the NCAA's highest priorities. The NCAA Division I Board of Directors and the membership want to provide student-athletes with a sound educational experience that contributes to their personal well-being and will help them be successful after graduation. The NCAA's involvement in regulating academic integrity is predicated on fair competition on the playing field involving college students competing against other college students, academic standards that lead to graduation, and the necessity of student-athletes earning the requisite credits/grades.

Background and timeline for review.

The Division I Board of Directors charged the NCAA Division I Presidential Forum to oversee a review of the NCAA's proper role in addressing academic violations that impact student-athlete eligibility and/or fair competition.

Division I adopted improved legislation in 2016 that better balances deference to institutional autonomy and NCAA oversight in academic matters, and the membership to date has not indicated that an overhaul of the current legislation is needed. However, various "gaps" have nonetheless surfaced that may be problematic, and the Forum has worked over the last several months to develop concepts to address the concerns. The Forum has intentionally not yet taken formal positions on the concepts; rather, Forum members will work with their conference commissioners during spring/summer conference presidential meetings to gather input. Key Division I governance committees (e.g., NCAA Division I Council, Committee on Academics, Committee on Infractions, Infractions Appeals Committee) will also provide comments.

The following bullets summarize the past year of work on this topic:

- Academic violations have been a focus of the division for several years, including a 2016 legislative revision that improved the application of academic rules but is just now starting to be applied in new cases. While the 2016 legislation is broadly considered a vast improvement, some membership groups have urged further exploring whether any "gaps" exist in the new legislation (this central theme is addressed later in this document).
- In April 2018, the Division I Board of Directors made academic misconduct one of its strategic areas of emphasis and assigned its highest advisory body, the Presidential Forum, to review the Association's role in academic violations involving or impacting student-athletes. The Board's decision was reinforced by the Commission on College Basketball, whose report included a reference to ongoing concerns about the NCAA's proper role in regulating academic matters, and by the Division I Committee on Infractions, which sent a written request to the Board seeking such a review.

***From the Board's
Strategic Areas of Emphasis:***

"Examine NCAA expectations related to academic misconduct to assure continued consistency with the practices of higher education while recognizing the Division I membership's collective interest in the fairness of competition and the integrity of the student-athlete experience."

- The NCAA Division I Presidential Forum Steering Committee created a small working group in January 2018 to help inform the review of academic integrity legislation, policy and interpretations. The working group was composed of members from the Division I Committee on Academics, Division I Committee on Infractions and Division I Infractions Appeals Committee – the three membership bodies that interact most directly with academic violations. The working group’s recommendations contributed significantly to the concepts described later in this document.
- The Forum met April 30 to further hone the concepts and pose questions to help shape the membership input that is so critical in this process. That feedback will be gathered through the spring and summer conference and NCAA governance meetings, with Forum members providing background and context during conversations within their conferences.
- Any changes to NCAA legislation as a result of this review would be considered in late winter/spring 2020 for potential application that year.

What are the problems to be solved and issues to be addressed?

1. Balance deference to the academy and student-athlete eligibility/fair competition.
 - Beyond student-athlete success and well-being, academic integrity is also connected to eligibility and fair competition. Accordingly, the NCAA has a role to play in regulating academic matters involving student-athletes. The NCAA does not wish to insert itself in the academic integrity arena to interfere with institutional autonomy; on the contrary, the NCAA rightfully acknowledges the institution’s authority to regulate academic integrity for all students. However, because student-athletes interact with and may be influenced by institutional staff members and boosters who seek to keep the student-athlete academically eligible to compete, it becomes the NCAA’s obligation to be responsive to those unique circumstances. While it is imperative to honor institutional autonomy in regulating academic matters within the academy, the Division I membership also has a vested interest in ensuring fair competition.
 - Inherent in that balance is a concern about overregulating institutions that already “do the right thing” and underregulating those that do not.
2. Restore public and membership confidence in the NCAA core value of academics.
 - Academic misconduct is particularly damaging, not only to the institution at which the violations occurred but also to the entire Association and certainly the student-athlete’s academic experience is compromised. When one school behaves poorly and the NCAA cannot act, it impacts the entire Association.
3. Position the NCAA to be responsive when “adults” (e.g., coaches, advisors, boosters) commit egregious academic violations to ensure a student-athlete’s eligibility or otherwise compromise fair competition. Current legislation may be particularly vulnerable in cases when an institution has no or sparse policies to address the behavior in question.
 - Academic integrity is at the core of higher education. Colleges and universities have layers of review/evaluation/approval to ensure their academic offerings meet the highest of standards. While there is an underlying desire to treat student-athletes and general students the same when it comes to campus academic policies and requirements, several factors are unique to the student-athlete environment, including the number and types of nonstudents who influence the student-athlete academic experience. That includes coaches, advisors, tutors, athletics administrators/staff and boosters who often have an interest in ensuring the student-athlete becomes or remains academically eligible to compete. While institutional policies regarding academic integrity address all students, they may or may not relate to these other individuals who interact uniquely with student-athletes. It is imperative that student-athletes do their own academic work, and nonstudents who interact with them must not unduly influence the completion of any of that work.

Items approved or underway.

Significant changes are already in place or underway that have (or could) improve the regulatory environment.

- **Approved.**

- The Division I membership has generally indicated that the framework adopted in 2016 was a significant improvement over the prior construct, which was vague and undefined legislatively. The current legislation is widely accepted as providing greater clarity in what is and is not a violation of NCAA rules in the academic misconduct space.
- Adding “importation” of outside materials and information as part of the infractions process (a recommendation from a topical working group formed after the Commission on College Basketball issued its report). Other changes include clearer responsibility to cooperate, additional penalties for parties who do not cooperate, and protection of whistleblowers. These changes have already been approved and are now operational.
- Another result of the Commission on College Basketball was to establish an independent alternative resolution program to investigate and adjudicate select infractions cases, potentially including academic misconduct cases.

Many people believe these actions provide a solid foundation from which to consider additional changes that further strengthen NCAA rules.

- **Underway.**

- The Presidential Forum asked the Division I Council to review and examine the interpretive framework within the context of the enforcement/infractions process. A working group has been named and work on this referral has begun. The working group is expected to provide a substantive update to the Forum in October 2019.
- The Forum supported the Academic Misconduct Working Group’s recommendation to collaborate with the six regional accrediting agencies to discuss their role in academic misconduct matters.

These factors both already approved and those still underway add resources that groups within the enforcement/infractions process will have at their disposal to help adjudicate academic violations. But not all areas are covered adequately at this point, as the following section illustrates.

What “gaps” in existing legislation need to be addressed?

Throughout this review, there has been recognition that the 2016 legislation improved how academic integrity was regulated and provides a solid foundation. Yet gaps remain, particularly when conduct falls outside of an institution’s written academic policies and procedures. As such, some “bad actor” behavior may go unregulated, which is what this review attempts to address. Following are areas where such gaps may exist.

- 1. Lack of or sparse campus academic policies.** If a member school has no existing academic policies that address a given situation (e.g., no policies that govern faculty; no policies governing grade changes; no policies regarding independent study courses), the remaining legislative framework may be too limited in scope. While the framework is limited in scope, it *is* a mechanism devised to capture those eligibility-impacting decisions that do not conflict with institutional policy. If the institution has no policy, then several criteria must be present to find an NCAA violation (i.e., the behavior impacted eligibility to compete, involved an institutional staff member, and was not generally available to institution’s students). These specific criteria may limit the NCAA’s ability to address all “bad behavior” that falls outside an institution’s own policies.

2. **Campus academic policy violations cannot be adjudicated for some reason or result in seemingly unreasonable outcomes that may yield competitive advantages.** In some instances, campuses have effective policies governing a specified circumstance, but the policy violation is not adjudicated for some reason. The following examples illustrate what can be missed due to this “gap” in the current legislation:
- A student-athlete who was rendered eligible through a coach doing all the coursework has now turned professional, so the school does not apply its policies and does not find any institutional policy violation.
 - A student-athlete opts not to participate in the campus’ academic misconduct adjudication process. The campus is therefore unable to determine whether the coach completing all of the student’s coursework was a violation of its policy.

Again, while institutional autonomy is honored in each case, most people would regard the outcomes as unreasonable.

3. **The “unimaginable” (i.e., purposeful disregard of academic norms that threatens the collegiate model).** While the existing legislation and the concepts aimed at filling the gaps are worth considering, it is not possible to ensure that every possible scenario of academic misconduct would be captured. If an instance were to arise that clearly violates NCAA core academic values but is “unthinkable,” the legislation might not capture the situation. That’s what makes the behavior so outrageous – it is unimaginable for a school to behave in this fashion. When an institution’s behavior appears to threaten the collegiate model, some mechanism needs to provide the flexibility to capture such behavior. When the institution purposefully disregards academic norms in the effort to win, there should be no impediment to an NCAA infractions review.

Forum feedback to date.

- The Forum acknowledges that issues of institutional autonomy, fair competition and reputational impact are at play when addressing academic integrity and fairness issues.
- The Forum has expressed concern about requiring academic policies for student-athletes that are different than for regular students, or requiring supplementary regulations governing only student-athletes and institutional staff members (and boosters) in academic matters. The Forum also is concerned about the NCAA regulating specified areas that campus policies should cover, and often do.
- The Forum has expressed interest in current requirements for institutions to have written academic misconduct policies that govern all students and that alleged violations of such institutional policies are adjudicated by the institution consistent with the school’s policies. Such policies should apply in the same way to all students regardless of the extracurricular activities in which they are involved. These existing standards reinforce institutional autonomy in having each campus determine appropriate academic policies for all students and adjudicating violations of such policies on campus consistent with those policies.
- The Forum is concerned about overregulation on all Division I members, but strongly interested in knowing that those who engage in a pattern of practice of egregious acts of academic misconduct can be penalized through NCAA processes.
- The Forum believes further examination of possible preventative measures that could help each campus review academic integrity issues involving student-athletes is appropriate, including providing examples of possible options to help campuses in this regard (e.g., best practices).

CONCEPTS FOR FEEDBACK

The following concepts have been developed for membership feedback. These concepts are not mutually exclusive. Members may support one or more, or none.

Concept 1: Adopt legislation to add an overarching bylaw that would capture instances of systemic, willful disregard for academic integrity as it pertains to student-athlete eligibility and/or fair competition.

Factors to consider.

- This legislation in concept would state, *“An institution may be held accountable through the NCAA infractions process in rare and extraordinary circumstances in which the value of competitive fairness is compromised in the context of student-athlete eligibility. The purpose of this provision is to address instances in which there is a pattern and practice of egregious academic malfeasance that is (1) systemic and pervasive in nature AND (2) indicates a willful disregard by the institution for academic integrity as it pertains to student-athletes.”*
- Before the enforcement staff alleges this violation in a notice of allegations, a conceptual framework was discussed in which a membership group of academicians (e.g., presidents) would review the allegation as a “guardrail” to protect deference to institutional autonomy and reduce the perception of NCAA overreach. Upon approval of the membership group, the enforcement staff may charge this bylaw in addition to or in lieu of other bylaws.
- This concept supports a strong commitment to defer to institutional decision-making on academic issues yet acknowledges the NCAA has a role to play (with appropriate guardrails) when problems exist that are systemic and pervasive and reflect willful disregard even in instances when the school believes otherwise.
- If adopted, this concept would affect the nomenclature used in NCAA bylaws in that only behaviors alleged under this overarching bylaw would be categorized as “academic misconduct.” All other behaviors would be categorized as “academic violations.” The rationale is that because the term “academic misconduct” is so damaging to an institution’s reputation, it should be reserved only for instances that are systemic and pervasive – indicating widespread institutional accountability – rather than apply to instances involving one or two “bad actors.” *(Note: If this concept is adopted, the nomenclature adjustments would be applied in the legislative changes included in Concept 2 below.)*
- Similar to alleged violations of institutional control, the enforcement staff would charge, and the Division I Committee on Infractions or the new Independent Resolution Panel would have to conclude whether the violation occurred. The charge would occur only after the enforcement staff completes its investigation, as only then are the facts fully known; the institution has provided all the information; and all interviews have been conducted.

Questions for membership feedback:

1. Do you support adoption of such an overarching bylaw? Yes or No.
2. If so, do you support a membership group of academicians (e.g., presidents) reviewing the matter before the enforcement staff alleges the violation as a “guardrail” to protect deference to institutional autonomy and reduce the perception of NCAA overreach?
3. Any other comments about this concept?

Concept 2: Adopt legislation to improve the overall clarity and reinforce the intended application of the legislation Division I adopted in 2016. (See the attachment for an overview of these changes.)

Factors to consider.

- The package includes the following components:
 - Consolidate all elements of academic misconduct legislation into one section of Bylaw 14 (definitions, pre-enrollment, post-enrollment).
 - Establish uniform terminology to describe the different types of academic conduct and scenarios that constitute NCAA academic integrity violations.
 - Embed the institutional determination of a policy violation into the legislative mechanics of assessing whether an NCAA academic integrity violation occurred.
- The recommended revisions simply clarify existing legislative authority in a manner that:
 - Continues to address *only* the specific types of institutional academic issues that currently constitute NCAA violations;
 - Does *not* change how the existing legislative framework applies on an individual campus, but simply restructures the legislation into a more approachable format, designed to improve understanding and simplify application; and
 - Does *not* impact how the existing legislative framework is currently used to evaluate academic incidents that occur on campus.

Questions for membership feedback:

1. Do you support the clarifications as noted in the attachment? Yes or No.
2. Other comments?

Concept 3: Provide institutions with “best practices” to help schools prevent academic violations for student-athletes.

Factors to consider.

- This concept reinforces institutional autonomy by acknowledging that the vast majority of institutions maintain and follow their own academic policies and procedures very well and most have academic oversight committees to help prevent academic integrity issues for student-athletes. The NCAA Division I Committee on Academics could be asked to publish and periodically update suggested best practices that can assist member institutions in developing policies, practices and mechanisms to help prevent academic violations by student-athletes, institutional staff and boosters. These could include, for example, a review of campus academic policies involving grade changes; policies and procedures involving academic support personnel; and training and education of staff and coaches.
- The Academic Misconduct Working Group originally proposed requiring that each institution have an academic oversight committee appointed to review student-athlete eligibility and fair competition issues. However, because the Presidential Forum has consistently been opposed to overregulation, the concept was morphed into a more flexible approach that allows each campus to determine the most appropriate mechanism for reviewing and identifying academic integrity issues for student-athletes.

Questions for membership feedback:

1. Do you support this concept? Yes or No.
2. Since having a campus mechanism for reviewing issues of academic integrity for student-athletes is encouraged and not required, some within the membership have suggested that whether the institution has such a mechanism be considered either a mitigating or aggravating factor in an academic misconduct infractions case as a way to further encourage the mechanism being in place. Do you support this approach?
3. Other comments about this concept?

Concept 4: Allow the legislation adopted in 2016 and the new tools created as a result of the Commission on College Basketball to more fully play out before seeking alternative solutions.

Factors to consider.

- This concept establishes a holding pattern that allows additional review of whether the revised legislation adopted in 2016 – which is just now starting to be applied in new cases – achieves desired outcomes. In addition, the investigative changes and the Independent Resolution Panel that came as a result of the Commission on College Basketball have yet to be fully implemented. While this concept is not a commitment to the status quo per se, it does offer a pause in the review to more fully evaluate the effects of these additions to the toolbox.
- While the current legislation became effective in 2016, cases involving post-2016 conduct are just now making their way through the pipeline. However, the ability to address certain institutional scenarios may be limited, particularly when an institution has no or insufficient policies to address the behavior, or when an institution either cannot or chooses not to find a violation.
- This option could result in egregious breaches of academic misconduct such as those noted in Concept 1, not being captured by NCAA rules.

Questions for membership feedback:

1. Do you support making no changes at this time? Yes or No.
2. Do you have any additional alternatives to suggest?
