



REPORT OF THE
NCAA DIVISION II IMPLEMENTATION COMMITTEE
JUNE 30, 2022, VIDEOCONFERENCE

ACTION ITEMS.

1. 2023 NCAA Convention Proposals.

a. 2023 NCAA Convention Legislation – NCAA Division II Presidents Council Composition, Terms of Service and Selection Process.

- (1) Recommendation. Sponsor legislation for the 2023 NCAA Convention to rename the NCAA Division II Presidents Council as the NCAA Division II Executive Board and amend Bylaws 8.1.1 (composition), 8.1.3.2 (term of office) and 8.1.3.2.1 (chair and vice chair) as follows:

The composition of the Executive Board to include the following:

- Eight presidents/chancellors based on Division II championships region;
- One at-large president/chancellor to enhance diversity on the board;
- Two independent members who are not salaried by an NCAA member institution, conference or affiliated member and shall be approved, appointed and verified as independent by the Executive Board;
- *Two student-athletes (one representing male sports, one representing female sports), serving on and chosen by the Division II Student-Athlete Advisory Committee; and
- The chair of the Division II Management Council, who will serve as an ex officio, nonvoting member.

Establish the following terms of service:

- Two years, renewable for two years for presidents, chancellors and independent members;
- *One year, renewable for one year, for Division II Student-Athlete Advisory Committee members; and
- The chair and vice chair shall each serve terms not to exceed two years from three years.

Specify the selection process as follows:

- When a vacancy on the Executive Board occurs, a formal call for nominations will be sent to conference offices and to all presidents and chancellors eligible to serve. The members of the Executive Board shall select an individual to fill a vacancy after reviewing nominations submitted by institutions and/or conference offices.

**Note: The Division II Presidents Council in April approved noncontroversial legislation to include the student-athlete representation and terms of service on the current Presidents Council to align with the new constitution.*

- (2) Effective date. February 1, 2024.
- (3) Rationale. A streamlined Division II Executive Board provides the division the ability to be nimble in its strategic thinking. The Management Council has been assigned additional duties and is the body that has decision-making authority on the day-to-day responsibilities for the division and includes representation from each Division II conference. The independent members provide perspectives from outside of higher education, which will provide new ideas for the Executive Board as it develops and executes its strategic initiatives for the division. Further, the independent members will be selected by the Executive Board members and having independent members is consistent with the composition of boards on campuses. (See Attachment E and Informational Item 3-c-ii for details on how the independent members will be selected.) The terms of service will permit a rotation of presidents and chancellors in the championship regions to occur more frequently, increasing the number of opportunities for presidents/chancellors to serve. Finally, a delayed effective date of February 1, 2024, will permit the current Division II Presidents Council members to remain on the council through the full 2023 legislative cycle that concludes with the 2024 NCAA Convention.
- (4) Estimated budget impact. None.
- (5) Student-athlete impact. None, as the two student-athletes were appointed, effective August 1, 2022, per the noncontroversial legislation approved in April.

(Note: Bylaw references are specific to the Division II Manual, effective August 1, 2022, and consistent with the adoption of NCAA Proposal No. NC-2023-2.)

b. 2023 Convention Legislation – NCAA Division II Presidents Council (Executive Board) Duties.

- (1) Recommendation. Sponsor legislation for the 2023 Convention to amend Bylaw 8.1.2 (duties and responsibilities) and the duties of the newly named NCAA Division II Executive Board as follows:
 - Implement policies adopted by the NCAA Board of Governors;
 - Establish and direct the general policy of Division II;
 - Establish a strategic plan and/or a set of strategic priorities for Division II;
 - Elect a chair and vice chair;
 - Appoint a Division II Executive Board member to the Board of Governors;

- Sponsor Division II legislation or grant relief from the application of legislation in circumstances in which significant values are at stake or the use of the regular legislative process is likely to cause significant harm or hardship to the Association or the Division II membership because of the delay in its effective date;
- Adopt emergency legislation;
- Sponsor amendments and amendments-to-amendments to the constitution by a two-thirds majority vote;
- Call for a special convention of Division II;
- Delegate to the Management Council responsibilities for specific matters it deems appropriate;
- Approve recommendations of the Management Council, including the composition of the Management Council;
- Ratify, amend or rescind the actions of the Management Council;
- Ensure there is gender and ethnic diversity among its membership, the membership of the Management Council and the membership of each of the other bodies in the Division II governance structure;
- Approve the budget and the use of funds allotted to Division II (e.g., revenue distribution funds, funds for the operation of championships);
- Approve regulations providing for expenditures and income to Division II;
- Approve regulations providing for the administration of Division II championships;
- Advise the Board of Governors concerning the employment of the NCAA president and concerning the oversight of their employment;
- Provide comments and input to the Board of Governors on matters that impact Division II and the Association;
- Convene same-site meetings, as necessary, with the Management Council; and
- Create committees or other bodies (e.g., project teams) to study and recommend courses of action on specific issues or to fulfill the duties and responsibilities of Division II.

(2) Effective date. February 1, 2024.

(3) Rationale. With these duties, the Executive Board will have additional time to discuss strategic issues that directly impact Division II and higher education. Further, given the Management Council has the day-to-day authority for the division's operations, the recommended amended duties for the Executive Board include delegating additional decision-making authority to the Management Council, including all responsibilities for noncontroversial legislation, the authority to sponsor legislation for the Convention and the activities of the annual NCAA Convention. Finally, the delayed effective date of February 1, 2024, aligns with the recommendation regarding the new composition of the Division II Executive Board.

(4) Estimated budget impact. None.

- (5) Student-athlete impact. None.

(Note: Bylaw references are specific to the Division II Manual, effective August 1, 2022, and consistent with the adoption of NCAA Proposal No. NC-2023-2.)

c. 2023 Convention Legislation – NCAA Division II Management Council Composition.

- (1) Recommendation. Sponsor legislation for the 2023 Convention to amend Bylaw 8.2.1 (composition) and Bylaw 8.2.3.1 (selection process), as follows:

The composition of the NCAA Division II Management Council:

- One member from all voting, multisport Division II conferences;
- Four at-large members to enhance diversity on the council; and
- *Two members from the Division II Student-Athlete Advisory Committee (one representing male sports, one representing female sports), serving on and chosen by the Division II Student-Athlete Advisory Committee.

The members of the council shall include at least five directors of athletics, five senior woman administrators, five faculty athletics representatives and two conference office staff. Once these minimums are met, the council may include individuals working in athletics administration and individuals that supervise athletics, including but not limited to a vice president, athletic trainer, assistant/associate/deputy director of athletics, and/or other individuals involved in the administration of athletics.

**Note: The Division II Management Council in April approved the amended student-athlete representation on the Management Council for each student-athlete to have one vote instead of a combined vote.*

The selection process for the Division II Management Council:

- When a vacancy on the Management Council occurs, each conference shall propose a slate of nominees that includes a director of athletics, a senior woman administrator and a faculty athletics representative and may include a conference administrator.
- If a conference would like to submit one or two additional nominees (beyond a director of athletics, senior woman administrator, faculty athletics representative and a conference administrator) as part of its slate, the slate must include at least two women and one person of color.
- The members of the Management Council shall select individuals to fill vacancies from the slates of nominees. Individuals selected by the Management Council must be ratified by the Presidents Council.

- (2) Effective date. August 1, 2023.
- (3) Rationale. The Division II Management Council manages and has decision-making authority for the day-to-day affairs of the division, reviews and acts on recommendations from Division II and Association-wide committees and serves as an advisory group to the Presidents Council (Executive Board). Based on membership feedback, it remains important for all Division II multisport voting conferences (23 currently) to have representation on the Management Council. Increasing the minimum number of athletics directors, senior woman administrators, faculty athletics representatives and conference office staff by one each (five, five, five and two from four, four, four and one) will result in over half the council being represented by those leadership positions in athletics. Further, opening the council to additional members in leadership administrative positions will provide more qualified Division II administrators, including those with previous committee experience, with an opportunity to serve. Finally, the additional members will provide different perspectives to the discussions.
- (4) Estimated budget impact. The addition of one member overall to the group will have a minimal budget impact (i.e., travel and per diem for in-person meetings).
- (5) Student-athlete impact. The newly comprised Management Council elevates the student-athlete voice by giving each of the two SAAC representatives a vote and broadening the number of athletics administrators and faculty who advocate on their behalf.

(Note: Bylaw references are specific to the Division II Manual, effective August 1, 2022, and consistent with the adoption of NCAA Proposal No. NC-2023-2.)

d. 2023 Convention Legislation – Division II Management Council Duties.

- (1) Recommendation. Sponsor legislation for the 2023 Convention to amend Bylaw 8.2.2 (duties and responsibilities) to specify the duties of the NCAA Division II Management Council as follows:
 - Implement policies adopted by the NCAA Board of Governors and the Division II Presidents Council (Executive Board);
 - Make recommendations to the Presidents Council (Executive Board) on matters it deems appropriate;
 - Adopt noncontroversial and intent-based amendments, administrative bylaws and regulations to govern Division II;
 - Sponsor legislative proposals for a vote at the annual NCAA Convention;
 - Take final action on matters delegated to it by the Presidents Council (Executive Board);

- Review and act on the recommendations of the Division II committee structure and the recommendations of committees with Association-wide functions;
- Appoint the members of the Division II committee structure and appoint the Division II representatives to committees with Association-wide functions;
- Identify, before the printing of the Official Notice for any Convention, Division II proposals for which a roll-call vote of the eligible voters may be required and designate during the Convention the roll-call votes that must occur;
- Establish the final sequence of legislative proposals in the agenda for the Division II business session at the annual Convention;
- Elect a chair and vice chair;
- Organize and participate in an annual “summit” with the Division II Student-Athlete Advisory Committee;
- Hear and act on appeals by member institutions of decisions made by a Division II committee or the NCAA staff regarding the application of NCAA legislation (excluding actions of any committee that has final authority over issues subject to appeal); and
- Recommend the creation of committees or other bodies to study and suggest courses of action on specific issues or to fulfill the duties and responsibilities of Division II, subject to approval by the Presidents Council (Executive Board).

(2) Effective date. August 1, 2023.

(3) Rationale. Given the Division II Management Council has the day-to-day authority for the division’s operations, the recommended amended duties include additional decision-making authority, including the authority to sponsor legislation for the Convention, all responsibilities for noncontroversial legislation and the activities of the annual NCAA Convention. Additionally, the amended duties for the Management Council will allow the Division II Executive Board additional time to discuss strategic initiatives and those issues that directly impact Division II and higher education.

(4) Estimated budget impact. None.

(5) Student-athlete impact. None.

(Note: Bylaw references are specific to the Division II Manual, effective August 1, 2022, and consistent with the adoption of NCAA Proposal No. NC-2023-2.)

e. 2023 Convention Legislation – NCAA Division II Planning and Finance Committee Composition.

(1) Recommendation. Sponsor legislation for the 2023 Convention to rename the NCAA Division II Planning and Finance Committee as the NCAA Division II Strategic Planning and Finance Committee and amend Bylaw 8.4.1 (composition) to specify the composition as follows:

- One Division II Presidents Council (Executive Board) member who serves as the vice chair;
- Two Management Council members, including the vice chair;
- One conference commissioner;
- One member from the Division II Student-Athlete Advisory Committee; and
- Six additional members.

At least one member shall be from a minority-serving institution.

- (2) Effective date. February 1, 2024.
- (3) Rationale. Expanding the committee from seven to 11 members and including a Division II SAAC representative will give the committee additional perspectives, ideas and input, while remaining nimble. The Division II Planning and Finance Committee is responsible for overseeing the Division II strategic plan, so renaming the committee to include “strategic” is consistent with its current duties. Additionally, this change will have the Division II Strategic Planning and Finance Committee reporting to the Division II Management Council with final approval by the Division II Presidents Council (Executive Board). This reporting structure will align with the division’s current governance structure process for all other committees. Finally, a delayed effective date of February 1, 2024, will permit the current members of the Division II Planning and Finance Committee to participate through the entire committee meeting cycle of April, August, September and December.
- (4) Estimated budget impact. Minimal, as the committee traditionally meets virtually.
- (5) Student-athlete impact. The recommended amended composition elevates the student-athlete voice by adding a SAAC member.

(Note: Bylaw references are specific to the Division II Manual, effective August 1, 2022, and consistent with the adoption of NCAA Proposal No. NC-2023-2.)

f. 2023 Convention Legislation – NCAA Division II Planning and Finance Committee (Strategic Planning and Finance Committee) Duties.

- (1) Recommendation. Sponsor legislation for the 2023 Convention to amend Bylaw 8.4.2 (duties) to specify the duties of the newly named NCAA Division II Strategic Planning and Finance Committee as follows:
 - Monitor the Division II strategic plan/strategic priorities; and assess and report on its implementation and recommend updates, when necessary, consistent with the Division II philosophy, strategic position and direction from the Division II Presidents Council (Executive Board);

- Provide regular reports on the implementation of the strategic plan/strategic priorities to the Division II Management Council and Presidents Council (Executive Board);
- Make recommendations related to the Division II budget and the budget guidelines and principles;
- Ensure alignment of the division's strategic plan/strategic priorities with financial allocations; and
- Advise both the Division II Presidents Council (Executive Board) and Management Council regarding the division's financial affairs.

(2) Effective date. February 1, 2024.

(3) Rationale. The committee currently advises both the Division II Presidents Council (Executive Board) and Management Council regarding the division's financial affairs. This amended language will clarify that the Strategic Planning and Finance Committee is responsible for overseeing the Division II strategic plan and recommends budget priorities to the Presidents Council (Executive Board) and Management Council. Finally, a delayed effective date of February 1, 2024, aligns with the effective date of the new composition of the committee.

(4) Estimated budget impact. None.

(5) Student-athlete impact. None.

(Note: Bylaw references are specific to the Division II Manual, effective, August 1, 2022, and consistent with the adoption of NCAA Proposal No. NC-2023-2.)

g. 2023 Convention Legislation – NCAA Division II Administrative Committee Composition.

(1) Recommendation. Sponsor legislation for the 2023 Convention to amend Bylaw 8.3.1 (composition) to specify the composition of the NCAA Division II Administrative Committee as follows:

- The chair and vice chair of the Division II Presidents Council (Executive Board);
- The chair and vice chair of the Division II Management Council; and
- The chair of the Division II Student-Athlete Advisory Committee.

(2) Effective date. August 1, 2023.

(3) Rationale. This is consistent with adding and amplifying the student-athlete voice within the division. This recommendation includes the leadership of the top divisional bodies.

(4) Estimated budget impact. None.

(5) Student-athlete impact. The recommended amended composition elevates the student-athlete voice by adding a SAAC member.

(Note: Bylaw references are specific to the Division II Manual, effective August 1, 2022, and consistent with the adoption of NCAA Proposal No. NC-2023-2.)

h. 2023 Convention Legislation – Division II Legislation/Amendment Process.

(1) Recommendation. Sponsor legislation for the 2023 Convention to amend the timing of the Division II legislative process as follows:

- July 15: Deadline for submission of proposals by the membership.
- September 1: Deadline for the Division II Presidents Council (Executive Board) to sponsor legislation.
- September 15: Modification period for membership-sponsored proposals.
- October 7: Deadline for committee review of membership-sponsored proposals.
- By December 10: Publication of the Official Notice.

(2) Effective date. Immediate, for proposals submitted for the 2024 NCAA Convention.

(3) Rationale. This recommendation to streamline and simplify the legislative process was one of several options vetted within the membership and supported through feedback opportunities. Consideration was given to extending the deadline for membership proposals to August 1, but it was agreed to retain the current July 15 deadline in order to give the Division II Management Council and Division II Student-Athlete Advisory Committee the opportunity to review the proposals during their summer meetings. The amended timeline takes advantage of advances in technology to eliminate the previously published Initial Publication of Proposed Legislation (IPOPL) and the Second Publication of Proposed Legislation (SPOPL) and to provide only the Official Notice, which will result in a unified communication of educational material for the NCAA Convention. Educational materials will be made available in the fall, including a complete PDF of the proposals for the Convention and voice-over educational video. The Q&A will be made available when the Official Notice is posted.

(4) Estimated budget impact. None.

(5) Student-athlete impact. None.

i. 2023 Convention Legislation – Division II Institutional Self-Study Guide.

(1) Recommendation. Sponsor legislation for the 2023 Convention to eliminate the Institutional Self-Study Guide (ISSG).

(2) Effective date. August 1, 2023.

(3) Rationale. Current legislation requires institutions to conduct a comprehensive self-study and evaluation of their intercollegiate athletics programs at least once every five years, using the ISSG to facilitate the process. The legislation was adopted in 1997 and was intended to enhance the integrity of Division II athletics programs by helping administrators evaluate and identify specific areas in their own athletics programs that may represent potential problems and develop written plans for improvement for those areas. While the ISSG has been an integral and successful component of ensuring compliance and integrity within Division II intercollegiate athletics operations during this time, the instrument in and of itself is no longer the right tool by which to conduct such evaluation given the likely restructuring of Division II rules and policies that will occur as a result of the adoption of the new constitution. Accordingly, the recommendation is to eliminate the ISSG and ask the Division II Membership Committee to consider the development of a new evaluation tool/process that aligns more closely with the division's revamped bylaws and policies (see Item d-ii in the Referrals section below for more information).

(Note: In April, the Division II Management Council approved pausing the ISSG for the 2021-22 reporting year and thereafter while the issue is reviewed.)

(4) Estimated budget impact. None.

(5) Student-athlete impact. None.

j. 2023 Convention Legislation – Definition of Agent.

(1) Recommendation. Sponsor legislation for the 2023 Convention to redefine the term “agent” in Division II Bylaw 12 (amateurism) to align with that used in the Uniform Athlete Agent Act; further, restructure/redraft Bylaw 12.3 (use of agents) to specify the following:

- It shall be permissible for a student-athlete to sign a contract to receive advice/negotiations from an agent;
- It shall be permissible for a student-athlete to use professional service providers.
- It shall be impermissible for a student-athlete (or their relatives) to receive benefits (tangible or intangible) from an agent or individual for professional sports opportunities; and
- It shall be impermissible for a student-athlete to enter into an agreement with an agent that helps to secure initial or continued enrollment or a scholarship at a particular institution.

(2) Effective date. August 1, 2023.

- (3) Rationale. This change will expand a student-athlete's ability to seek and receive advice from individuals for the purposes of making well-informed decisions prior to entering into contractual agreements. Allowing student-athletes to receive advice from an individual about a decision related to an agreement is in the best interests of student-athletes; specifically, when considering the name, image and likeness landscape. Establishing that it is permissible for a student-athlete to work with professional service providers, such as, but not limited to, tax consultants, attorneys, and marketing agents, allows for student-athletes to obtain the appropriate and necessary advice related to the student-athlete's name, image and likeness and the accompanying activities. Finally, it will still be impermissible for a student-athlete (or their relatives) to receive tangible or intangible benefits from an agent or individual for professional sports opportunities or, to enter into an agreement with an agent for or receive compensation or incentives related to enrollment-based decisions.
- (4) Estimated budget impact. None.
- (5) Student-athlete impact. None.

2. Noncontroversial Legislative Proposals.

a. Noncontroversial Legislation – NCAA Division II Presidents Council and Management Council Chair and Vice Chair Terms – Staggered Terms.

- (1) Recommendation. Adopt noncontroversial legislation to amend Bylaws 8.1.3.3.1 (chair and vice chair) and 8.2.3.3.1 (chair and vice chair) to specify that the chair and vice chair terms for the Presidents Council and Management Council shall not expire on staggered terms and to place the legislation in the NCAA Division II Presidents Council and Management Council policies and procedures.
- (2) Effective date. Immediate.
- (3) Rationale. In practice, the terms have not always been staggered and the council has had to elect and re-elect the vice-chair to ensure the legislation is followed. Given this has not occurred in practice, the legislation should be amended. Further, these items are more appropriate as policy and thus should be moved from legislation.
- (4) Estimated budget impact. None.
- (5) Student-athlete impact. None.

(Note: Bylaw references are specific to the Division II Manual, effective, August 1, 2022, and consistent with the adoption of NCAA Proposal No. NC-2023-2.)

b. Noncontroversial Legislation – NCAA Division II Presidents Council and Management Council Policies and Procedures.

- (1) Recommendation. Adopt noncontroversial legislation to remove the following legislation (Bylaws 8.1.3.3.2, 8.1.4.1, 8.2.3.3.2, and 8.2.4.1) and place in the NCAA Division II Presidents Council and Management Council policies and procedures:

- **Staggered Terms.**

- **Members.** The Division II Administrative Committee shall have the authority to amend terms of service of the Presidents Council/Management Council members, as necessary, to stagger the expiration of terms to provide for continuity of service.

- **Operating Rules.**

- **Quorum.** For the transaction of business, a quorum shall consist of a majority of the members of the Presidents Council/Management Council. For the Presidents Council/Management Council to take action, a simple majority of Presidents Council/Management Council members present and voting shall be required, unless otherwise specified.

- (2) Effective date. Immediate.

- (3) Rationale. These items are more appropriate as policy and thus should be moved from legislation. Doing so is noncontroversial, as there are no substantive changes to the language or its intent.

- (4) Estimated budget impact. None.

- (5) Student-athlete impact. None.

(Note: Bylaw references are specific to the Division II Manual, effective August 1, 2022, and consistent with the adoption of NCAA Proposal No. NC-2023-2.)

c. Noncontroversial Legislation – Sport Sponsorship Requirements.

- (1) Recommendation. Adopt noncontroversial legislation to specify that an institution and conference in Division II shall sponsor a minimum of 10 sports; further, to eliminate the five-sport/three-season requirement, as specified.

- (2) Effective date. August 1, 2023.

- (3) Rationale. This change will maintain the minimum sports sponsorship requirement of 10 sports but eliminates the requirements by gender and sport season. This will provide institutions and conferences more flexibility in determining their sport offerings. In addition, institutions and conferences will likely work together to provide student-athletes with a variety of sport options, thereby, creating meaningful participation opportunities. The delayed effective date will permit necessary changes to occur for the sports sponsorship form required by schools to complete following each academic year and for the changes to occur at the start of an academic year.
- (4) Estimated budget impact. None.
- (5) Student-athlete impact. None.

d. Noncontroversial Legislation – Audit of Membership Requirements.

- (1) Recommendation. Adopt noncontroversial legislation to remove Bylaw 20.10.5 (audit of membership requirements) and place in the NCAA Division II Membership Committee's policies and procedures.
- (2) Effective date. Immediate.
- (3) Rationale. These items are more appropriate as policy and thus should be moved from legislation. Doing so is noncontroversial, as there are no substantive changes to the language or its intent.
- (4) Estimated budget impact. None.
- (5) Student-athlete impact. None.

e. Noncontroversial Legislation – Appeals of Interpretations Process.

- (1) Recommendation. Adopt noncontroversial legislation to amend the appeals of interpretations process to specify that the NCAA Division II Legislation Committee and the NCAA Division II Academic Requirements Committee shall be the final authority of appealed interpretations.
- (2) Effective date. Immediate.
- (3) Rationale. The Division II Legislation Committee and Division II Academic Requirements Committee are the bodies that contain individuals who are subject matter experts in the respective areas. The appeals process to the Division II Management Council has not been used in some time. The immediate effective date will permit the respective committees to exercise their authority in the appeal process sooner rather than later.

(4) Estimated budget impact. None.

(5) Student-athlete impact. None.

f. Noncontroversial Legislation – Amendments to Align with the Updated NCAA Interim Policy on Student-Athlete Name, Image and Likeness (NIL).

(1) Recommendation. Adopt noncontroversial legislation to amend Bylaw 12 (amateurism) to align with and address the goals of the Interim NIL Policy as follows:

- Remove duplicative language;
- More clearly define the term “professional service providers”;
- Remove Bylaw 12.1.2 (activities prior to full-time collegiate enrollment); • Codify the NIL Policy;
- Redraft Bylaws 12.1.3 (permissible – following initial full-time collegiate enrollment) and 12.1.4 (impermissible – following initial full-time collegiate enrollment);
- Clarify the use of a student-athlete’s NIL under Bylaw 12.4.1 (criteria governing compensation to student-athletes) to specify that unless the student-athletes has entered into an NIL agreement, an employer may not use the student-athlete’s reputation to promote their product or service; and
- Remove all of Bylaw 12.5 (promotional activities).

(2) Effective date. Immediate.

(3) Rationale. Aligning the legislation with the Interim NIL Policy and removing the legislation that directly conflicts will better assist the membership with managing the NIL environment as it relates to Bylaw 12.

(4) Estimated budget impact. None.

(5) Student-athlete impact. Student-athletes will be permitted to benefit from their name, image and likeness in a manner consistent with the NCAA Interim NIL Policy.

g. Noncontroversial Legislation – Enforcement and Infractions Process Amendments – Relocation of Legislative Language. [Attachment A]

(1) Recommendation. Adopt noncontroversial legislation to relocate legislative language from Constitution 2.1.1 (responsibility for control) and Constitution 2.8.1 (responsibility of institution) that articulates institutional responsibilities to monitor and control its athletics programs to Bylaw 7 (membership and institutional control) with nonsubstantive edits for consistency with the new constitution. Additionally, strike references to “constitution” in Bylaws 19 and 32.

(2) Effective date. August 1, 2022.

(3) Rationale. The Division II infractions process has historically considered and cited Constitution 2.1.1, 2.8.1 and 6.01.1 in cases involving an institution's failure to monitor and/or control its athletics programs. With the membership's adoption of the new constitution and specifically new language regarding institutional control and rules, compliance and accountability, the legislated responsibilities for member institutions to monitor and control its athletics programs should be relocated to the bylaws and updated for consistency. Additionally, references to enforcing or regulating the NCAA constitution in Bylaws 19 and 32 should be removed as the NCAA infractions process is not the appropriate authority/process to enforce the NCAA constitution.

(4) Estimated budget impact. None.

(5) Student-athlete impact. None.

h. Noncontroversial Legislation – Enforcement and Infractions Process Amendments – Accelerated Option for Hearings. [Attachment B]

(1) Recommendation. Adopt noncontroversial legislation to provide an accelerated option for hearings.

(2) Effective date. August 1, 2022.

(3) Rationale. Currently, in major cases in which the parties decide to have the case reviewed via a hearing with the Committee on Infractions, the institution and involved individuals have 90 days to respond to a notice of allegations. However, with the accelerated hearing option, the institution or involved individual may petition the committee chair for an accelerated schedule for written submissions and an earlier hearing date. The petition shall be submitted not later than 14 calendar days after the date of the notice of allegations. The enforcement staff may respond to the petition within five business days. The committee chair may grant or deny such a petition and set a reasonable schedule. This proposal provides a quicker processing option for hearings.

(4) Estimated budget impact. None.

(5) Student-athlete impact. None.

i. Noncontroversial Legislation – Enforcement and Infractions Process Amendments – Stay of Penalties During Appeal. [Attachment C]

- (1) Recommendation. Adopt noncontroversial legislation to stay the Committee on Infractions' penalties when an appeal is properly filed with the Infractions Appeals Committee to reflect current practices.
- (2) Effective date. August 1, 2022.
- (3) Rationale. If a notice of intent to appeal the Committee on Infractions' decision is filed within the deadline, unless ordered otherwise by the Infractions Appeals Committee, any penalties prescribed by the Committee on Infractions that have been appealed shall be stayed during the pendency of the appeal. The intent of this proposal is to provide transparency to current practices.
- (4) Estimated budget impact. None.
- (5) Student-athlete impact. None.

j. Noncontroversial Legislation – Enforcement and Infractions Process Amendments – Moving Specific Bylaws to Internal Operating Procedures.

- (1) Recommendation. Adopt noncontroversial legislation to eliminate legislation and where, appropriate, add to the Enforcement Staff's, Committee on Infractions' and/or Infractions Appeals Committee's internal operating procedures.
- (2) Effective date. August 1, 2022.
- (3) Rationale. The specific bylaws are more appropriate as policy and thus should be moved from legislation. Doing so is noncontroversial, as there are no substantive changes to the language or its intent.
- (4) Estimate budget impact. None.
- (5) Student-athlete impact. None.

k. Noncontroversial Legislation – Enforcement and Infractions Process Amendments – Merge, Update and Reorganize Bylaw 19 (Infractions Program) and Bylaw 32 (Enforcement Policies and Procedures).

- (1) Recommendation. Adopt noncontroversial legislation to merge, update and reorganize Bylaw 19 and Bylaw 32 into new Bylaw 19 (infractions program).
- (2) Effective date. August 1, 2023.

- (3) Rationale. Merging, updating and reorganizing Bylaws 19 and 32 will eliminate redundancies, update the legislation to reflect current practices and provide additional transparency to the membership's infractions' processes.
- (4) Estimated budget impact. None.
- (5) Student-athlete impact. None.

1. Noncontroversial Legislation – Discipline of Members.

- (1) Recommendation. Adopt noncontroversial legislation to eliminate Constitution 3.3.4.13, 3.3.6 and 3.4.6, regarding the discipline of members.
- (2) Effective date. Immediate.
- (3) Rationale. The references to discipline in the current Bylaws 19 and 32 and Constitution 3 are outdated and/or duplicative of what is currently legislated in Bylaws 19 and 32 related to NCAA violations.
- (4) Estimated budget impact. None.
- (5) Student-athlete impact. None.

3. Nonlegislative Items.

a. Division II Enhancement Fund.

- (1) Recommendation. Separate the current Enhancement Fund into two distinct line items in the Division II budget:
 - a. Conference Sports Sponsorship Fund – allocate 75% of current budget.
 - b. Institutional Equal Distribution Fund – allocate 25% of current budget.

Further, approve a policy change to earmark the institutional equal distribution fund to benefit the athletics department, but do not require a report on how institutions use these dollars.

- (2) Effective date. September 1, 2022.
- (3) Rationale. Separating the current Enhancement Fund into two distinct line items, one for conference distribution and one for institutional distribution, will allow the Division II Planning and Finance Committee (Division II Strategic Planning and Finance Committee) to review and treat each distribution separately. It will also provide clarity in the budget as to how much is allocated to each group. In addition,

earmarking the allocation to athletics use will benefit Division II athletics departments and student-athletes. Responses from the membership survey in February indicated that most institutions already earmark these funds for athletics use, and the majority favored continuing to do so.

- (4) Estimated budget impact. None.
- (5) Student-athlete impact. Student-athletes will benefit from these funds being earmarked to athletics.

b. Division II Surplus Distribution Process.

- (1) Recommendation. Approve a policy change to designate any supplemental distribution from the Division II surplus to benefit the athletics department, but do not require a report on how institutions use these dollars.
- (2) Effective date. September 1, 2022.
- (3) Rationale. This change would be consistent with the recommendation for the institutional equal distribution fund above.
- (4) Estimated budget impact. None.
- (5) Student-athlete impact. Student-athletes will benefit from these funds being earmarked to athletics.

4. Referrals.

Action Requested: The Division II Management Council is asked to approve the following referrals recommended by the six subcommittees to the specified existing bodies within the Division II governance structure for further review/resolution.

a. To the Division II Academic Requirements Committee:

- **From the Legislative Process and Compliance Subcommittee:** Review the two-year college transfer requirements and progress-toward-degree requirements in current Bylaw 14.

b. To the Division II Championships Committee:

- i. **From the Championships Subcommittee:** Explore a championships structure that sets 35 as a uniform minimum sponsorship requirement to establish/maintain a Division II championship in men's and women's sports (with a five-year grace period if a sport falls below the minimum), continues to offer the best access ratio among divisions (via a

range from 4.5 to 6), and grants automatic qualification privileges to a championship once minimum sponsorship is reached (rather than rely on sport committee recommendation), unless AQs would comprise more than 75 percent of the bracket (which may result in a bracket expansion).

- ii. **From the Championships Subcommittee and the Membership Subcommittee:** Collaborate with the Division II Membership Committee to consider aligning minimum contest requirements for sport sponsorship and championships selection purposes to simplify the process and provide the membership additional flexibility without compromising the integrity of either requirement area. [Note: Sport committees that oversee sports that currently have different standards (football, men's and women's golf, men's lacrosse and men's soccer) will be consulted for feedback as well.]
 - iii. **From the Championships Subcommittee:** Complete the task of combining Bylaws 18 and 31 to create a significantly revised overarching championships bylaw that moves several existing bylaws to policy. This task should be completed by February 2023 to allow for an August 1, 2023 effective date.
 - iv. **From the Championships Subcommittee:** While keeping regionalization principles related to selections, request the Division II Championships Committee consider changes to the division's championship model concerning regionalization bracketing policies with the goal of reducing first round conference matchups and maintaining fiscal responsibility.
 - v. **From the Championships Subcommittee:** Continue monitoring discussions within Division I regarding National Collegiate Championships and how any changes in that space will affect Division II.
 - vi. **From the Legislative Process and Compliance Subcommittee:** Consider which, if any, playing and practice season policies adopted during the COVID-19 pandemic should be adopted on a permanent basis.
- c. **To the Division II Legislation Committee:**
- i. **From the Legislative Process and Compliance Subcommittee:** Consider renaming current Bylaw 12 (amateurism).
 - ii. **From the Legislative Process and Compliance Subcommittee:** Review current Bylaw 13 (recruiting).
 - iii. **From the Legislative Process and Compliance Subcommittee:** Determine whether the various institutional reporting requirements remain relevant/useful.

- iv. **From the Legislative Process and Compliance Subcommittee:** Review the five-season/10-semester rule, transfer requirements and organized-competition rules in current Bylaw 14 (eligibility: academic and general requirements).
- v. **From the Legislative Process and Compliance Subcommittee:** Review Bylaws 15 (financial aid), 16 (awards, benefits and expenses for enrolled student-athletes) and 17 (playing and practice seasons).

d. To the Division II Membership Committee:

- i. **From the Championships Subcommittee:** Review current Bylaws 18.4.2 (institutional eligibility) through 18.4.2.2.2 (exemption from maximum awards limitation) and 31.3.3.6 (exclusion of institution reclassifying from Division II to Division I) for consideration of moving to Bylaw 7 (membership and institutional control) or policy.
- ii. **From the Membership Subcommittee:** Consider developing a new institutional engagement program to replace the Institutional Self-Study Guide.
- iii. **From the Membership Subcommittee:** Finalize the review of the Division II provisional membership process.
- iv. **From the Membership Subcommittee:** Review the definition of a covered event for the certification-of-insurance requirement.

e. To the Division II Planning and Finance Committee:

- i. **From the Budget Subcommittee:** Consider when a supplemental distribution is approved by the Presidents Council whether conferences should be included in the allocation and receive a portion of the distribution. Currently only institutions are eligible for this distribution.
- ii. **From the Budget Subcommittee:** Consider a potential waiver/grace period for conferences that fall below the minimum of six institutions sponsoring a sport to retain a unit for the conference sports sponsorship fund calculation.

f. To the Division II Student-Athlete Advisory Committee:

- i. **From the Governance Subcommittee:** Determine whether there is a need for SAAC representation on Division II general committees that currently do not include a SAAC member. (The SAAC is asked to seek feedback from the relevant general committees.)
- ii. **From the Governance Subcommittee:** Determine for committees that already do have a SAAC representative whether it would be beneficial to have student-athletes or former

student-athletes that are not on the Division II SAAC serve on these committees. (The SAAC is asked to seek feedback from the relevant general committees.)

g. To the Division II Committee on Student-Athlete Reinstatement:

- **From the Legislative Process and Compliance Subcommittee:** Review the hardship, seasons-of-competition and eligibility waivers in current Bylaw 14.

h. To the NCAA Enforcement Staff, the Division II Committee on Infractions and the Division II Infractions Appeals Committee:

- i. **From the Championships Subcommittee:** Review current Bylaws 31.2.2.4 (participation while ineligible) and 31.2.2.5 (institutional penalty for ineligible participation) for consideration of moving to Bylaw 19 or policy.
- ii. **From the Enforcement and Infractions Process Subcommittee:** Review the legislation for institutional control (new Bylaw 7) and institutional responsibilities to monitor its athletics programs to determine whether the expectations are fair, accurate and reasonable.
- iii. **From the Enforcement and Infractions Process Subcommittee:** Consider whether establishing charging guidelines for failure to monitor and lack of institutional control would be appropriate and beneficial.

INFORMATIONAL ITEMS.

1. **Welcome and review of agenda.** Implementation Committee Chair Debbie Ford welcomed the group and reviewed the agenda, noting that most of the action items emanate from concepts from the six subcommittees that the Implementation Committee reviewed during its May 16-17 in-person meeting.
2. **Review of June membership feedback period.** The committee reviewed the success of the membership feedback period in June that included two webinars to provide an overview of all the concepts and recommendations being considered. Additionally, the committee received updates regarding Division II governance committees and affiliate groups that met in June to review and discuss these concepts further.
3. **Subcommittee reports.** In addition to the items emerging from the six subcommittees that required action from the full committee (see the Action Items above), the committee received the following items as information.
 - a. **Budget Subcommittee.** The subcommittee discussed feedback received from Division II committees and affiliate groups on the formula for equal distribution concept that would change the institutional allocation from an equal distribution to one based on sports

sponsorship and decided to not recommend any changes to the distribution formula as most institutions would not benefit from this change. Institutions sponsoring the average number of sports for Division II (16 sports) would receive almost an identical distribution in either model. In addition, the number of institutions that would receive \$500 or more in a model based on sports sponsorship was minimal, especially when considering the support needed to accommodate the concept (i.e., the staff support to conduct the distribution and also the cost to the division to program a system to execute the distribution).

- b. Championships Subcommittee.** The subcommittee discussed regionalization at length, noting this has been a long-standing topic within the division. The subcommittee acknowledged the previous work of the Regionalization Working Group in 2018 and agreed that, while not perfect, regionalization is an important component of the Division II philosophy. The subcommittee believes selections should still be based on regionalization and noted an opportunity for the Championships Committee to study whether bracketing principles can be modified, including whether first round conference opponent matchups can be reasonably avoided.
- c. Governance Subcommittee.**

 - i. Updated How the NCAA Works – Division II.** Attachment D is a draft of the new How the NCAA Works – Division II, if the proposals to amend the Presidents Council, Management Council, Planning and Finance Committee, Administrative Committee and amended legislative process are approved at the 2023 Convention.
 - ii. Independent Members of the Executive Board.** The subcommittee reviewed guidance for nominations [Attachment E], a nominations process [Attachment F] and a nominee profile chart [Attachment G] to assist the Executive Board in the appointment of independent members to the Executive Board. The subcommittee agreed that the tools were helpful and should be broadly shared with the membership and used by the Executive Board, if the proposal is adopted at the 2023 Convention.
 - iii. Advising the Executive Board member from the championship's region.** The subcommittee discussed whether a formal process should be established or required to advise the Executive Board member from the championship's region and noted that a formal process will not be required and noted that it should ultimately be determined by the presidents and chancellors in that region. The subcommittee did suggest some possible considerations, including scheduling quarterly videoconference meetings to include the executive board member, presidents/chancellors in the region (e.g., chairs of the conferences), Management Council reps, SAAC reps and conference commissioners. Including all of these key voices in the discussions would enhance communication and engagement among schools in the region.

- iv. **At-large members on the Executive Board and Management Council.** Per current legislation, the at-large members on the Presidents Council and Management Council must enhance the gender and ethnic diversity of the councils. The subcommittee discussed whether the legislation should be amended for the proposed new Executive Board and Management Council. The subcommittee confirmed that the at-large representatives should continue to enhance the gender and ethnic diversity of the board/council to serve in the at-large positions.
- v. **Same institution on the Executive Board and Management Council.** Per current legislation, to the extent possible, members of the Presidents Council and Management Council shall not be employed at the same institution. The subcommittee confirmed that for the new Executive Board and Management Council members shall not be employed at the same institution.
- vi. **Independent Institutions on the Management Council.** The subcommittee confirmed that current legislation that requires there to be at least 10 independent institutions to have a guaranteed position on the Management Council should continue.
- vii. **Management Council Slate of Nominees.** Under current procedures, the conference administrator nominee is not required to submit the conference's slate of nominees. The subcommittee agreed that it should remain optional to submit a conference administrator nominee. A conference may still submit one or two additional nominees even if the slate does not include a conference administrator, but the slate must still include two women and a person of color.
- d. **Legislative Process and Compliance Subcommittee.** The subcommittee, in addition to the legislative recommendations, discussed potentially updating the number of institutions and/or conferences needed to properly sponsor an amendment, amendment-to-amendment or resolution. The subcommittee concluded that a legislative change was not necessary at this time since any change would produce no measurable result and could create confusion.
- e. **Membership Subcommittee.** In addition to the recommendations for change the subcommittee submitted above, the group noted the following items it discussed at length during meetings and videoconferences from March through May and decided they did not merit modification:
 - The definition of an athletics consortium;
 - Policies governing missed class time;
 - The signature page for the Student-Athlete Statement, Drug-Testing Consent, and HIPAA forms;
 - The conference SAAC annual meeting requirement;
 - Minimum financial aid requirements; and

- Requirements for the establishment of a new conference.

The Membership Subcommittee also noted as information its review and subsequent discussion with the Championships Subcommittee regarding whether minimum contest requirements for sports sponsorship and championship selection purposes should align. Currently, there are five sports for which they do not (football, men's and women's golf, men's lacrosse and men's soccer). Prior to its discussion with the Championships Subcommittee, the Membership Subcommittee had agreed to recommend that the sports sponsorship requirement for men's lacrosse be increased from eight to 10 to align with the requirement for championships selection purposes in that sport. However, given the subsequent agreement between the Membership Subcommittee and the Championships Subcommittee to refer the alignment issue to the NCAA Division II Championships Committee for a more comprehensive review (with input from impacted sport committees), the Membership Subcommittee decided to table the men's lacrosse recommendation.

4. Update regarding the processes in Divisions I and III. Staff provided updates from the Division I Transformation Committee and the Division III Advisory Council regarding those groups' progress on reviewing rules and policies in each of those divisions."

5. Review of next steps/timeline. The committee expects that this videoconference will be the most substantive remaining on its schedule. The committee will convene again August 8 to review actions the Division II Management Council and Division II Presidents Council will have taken regarding the recommendations included in this report and then will meet as needed in the fall pending progress on the items referred within the governance structure. Chair Ford expressed her gratitude for committee members' service to date, noting the group's commitment to thoughtfully developing concepts, diligently vetting them with the membership, and following through to submit the most informed and responsible recommendations at the end of the process.

6. Future Implementation Committee videoconferences.

- August 8, 11 a.m. to 12:30 p.m. Eastern time.

Committee Chair: Debbie Ford, Chancellor, University of Wisconsin-Parkside

Staff Liaison(s): Terri Steeb Gronau, Division II Governance

Maritza Jones, Division II Governance

Ryan Jones, Division II Governance

Stephanie Quigg, Academic and Membership Affairs

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| Division II Implementation Committee |
| June 30, 2022, Videoconference |
| Attendees: |
| Michaela Boyd, Palm Beach Atlantic University. |

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| Curtis Campbell, Morehouse College. |
| Jason Carmichael, University of West Georgia. |
| Chris Colvin, Conference Carolinas. |
| Ismael Contreras, Purdue University Northwest. |
| Devin Crosby, Lynn University. |
| Debbie Ford, University of Wisconsin-Parkside. |
| Marty Gilbert, Mars Hill University. |
| Chris Graham, Rocky Mountain Athletic Conference. |
| Gayle Hutchinson, California State University, Chico. |
| Jim Johnson, Pittsburg State University. |
| Colleen Perry Keith, Goldey-Beacom College. |
| Brandi Laurita, University of Findlay. |
| Kara Lindaman, Winona State University. |
| Madeleine McKenna, California University of Pennsylvania. |
| Traci Murphy, Daemen University. |
| Steve Roach, Texas A&M University-Kingsville. |
| Julie Ruppert, Northeast-10 Conference. |
| Kevin Schriver, Southwest Baptist University. |
| Wendell Staton, Georgia College. |
| Jackson Stava, Seattle Pacific University. |
| Harry Stinson III, Lincoln University (Pennsylvania). |
| Corbin Thaete, California State University, San Marcos. |
| Cherrie Wilmoth, Southeastern Oklahoma State University. |
| Absentees: |
| Jackie Armstrong, Point Loma Nazarene University. |
| Carrie Bodkins, Alderson Broaddus University. |
| Zach Brown, University of North Georgia. |
| Carrie Michaels, Shippensburg University of Pennsylvania. |
| Steven Shirley (ex officio), Minot State University. |
| Guests in Attendance: |
| Gary Brown, NCAA Contractor. |
| NCAA Staff Support in Attendance: |
| Terri Steeb Gronau, Division II Governance. |
| Maritza Jones, Division II Governance. |
| Stephanie Quigg, Academic and Membership Affairs. |
| Other NCAA Staff Members in Attendance: |
| Olivia Beach, Susan Britsch, Karen Kirsch, Jordan Lysiak, Corbin McGuire, Laura Wurtz McNab, Angela Red, Bri Reid, Olivia Sappington, Alex Smith, Jared Tidemann, Robert Turick and Jill Waddell. |

Division: II

Proposal Number: NC-2023-21

Title: NCAA MEMBERSHIP -- GENERAL PRINCIPLES -- RESPONSIBILITY OF INSTITUTIONS -- INSTITUTIONAL CONTROL AND MONITORING AN INTERCOLLEGIATE ATHLETICS PROGRAM

Convention Year: 2023

Date Submitted: June 14, 2022

Status: Last Review

Effective Date: August 1, 2022

IPOPL Number:

SPOPL Number:

Source: NCAA Division II Management Council (Implementation Committee).

Category: Noncontroversial

Topical Area: Membership

Intent: To confirm an institution's responsibility to control and monitor its intercollegiate athletics program, as specified; further, to remove references related to enforcing or regulating the NCAA Constitution set forth in Bylaws 19 and 32.

A. Bylaws: Amend 7.01, as follows:

7.01 General Principles.

[7.01.1 through 7.01.8 unchanged.]

7.01.9 Responsibility for Control. It is the responsibility of each member institution to control its intercollegiate athletics program in compliance with the rules and regulations of the Association. The institution's president or chancellor is responsible for the administration of all aspects of the athletics program.

7.01.10 Responsibility to Monitor and Report. Each institution shall comply with all applicable rules and regulations of the Association, its division, and conference and in the conduct of its intercollegiate athletics programs. It shall monitor its programs to ensure compliance and to identify and report to its division and conference instances in which compliance has not been achieved. The institution shall cooperate fully with any enforcement efforts and shall take appropriate corrective actions as necessary. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, including rules requiring cooperation with enforcement efforts, and the member institution shall be responsible for such compliance.

[7.01.9 through 7.01.10 renumbered as 7.01.11 through 7.01.12, unchanged.]

B. Bylaws: Amend 19.01.4, as follows:

19.01.4 Violations by Institutional Staff Members. Institutional staff members found in violation of the NCAA ~~constitution and/or~~ bylaws shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures, whether such violations occurred at the certifying institution or during the individual's previous employment at another member institution.

C. Bylaws: Amend 19.02.1, as follows:

19.02.1 Show-Cause Order. A show-cause order is one that requires a member institution to demonstrate to the satisfaction of the Committee on Infractions (or the Infractions Appeals Committee per Bylaw 19.2) why it should not be subject to a penalty (or additional penalty) for not taking appropriate disciplinary or corrective action with regard to an institutional staff member or representative of the institution's athletics interests identified by the committee as having been involved in a violation of the NCAA ~~constitution and/or~~ bylaws that has been found by the committee.

D. Bylaws: Amend 19.1.3, as follows:

19.1.3 Duties. The committee shall:

[19.1.3-(a) through 19.1.3-(c) unchanged.]

(d) Find facts related to alleged violations and conclude whether the facts constitute one or more violations of the NCAA ~~constitution and/or~~ bylaws;

[19.1.3-(e) through 19.1.3-(g) unchanged.]

E. Bylaws: Amend 19.5.2.2, as follows:

19.5.2.2 Show-Cause Order. If a determination is made by the committee that an institution has not taken appropriate disciplinary or corrective actions regarding an individual found in violation of the NCAA ~~constitution and/or~~ bylaws, the committee may issue an order that the institution take additional disciplinary or corrective action, including but not limited to restriction of some or all athletically related duties unless the institution appears before the committee to show cause why the additional penalties should not be applied. Decisions regarding disciplinary or corrective actions involving personnel shall be made by the institution, but the determination of whether the action satisfies the institution's obligation of NCAA membership shall rest solely with the Committee on Infractions.

[19.5.2.2.1 unchanged.]

F. Bylaws: Amend 19.6.4.1, as follows:

19.6.4.1 Obligation of Institution to Take Appropriate Action. When the committee (or the Infractions Appeals Committee per Bylaw 19.2) concludes that there has been a violation of the NCAA ~~constitution and/or~~ bylaws affecting the eligibility of an individual student-athlete or student-athletes, the institution involved and its conference(s), if any, shall be notified of the violation and the name(s) of the student-athlete(s) involved, it being understood that if the institution fails to take appropriate action, the involved institution shall be cited to show cause under the Association's enforcement policies and procedures why it should not be disciplined for a failure to abide by the conditions and obligations of membership (declaration of ineligibility) if it permits the student-athletes to compete.

G. Bylaws: Amend 19.7, as follows:

19.7 Restitution. If a student-athlete who is ineligible under the terms of the ~~constitution~~, bylaws or other legislation of the Association is permitted to participate in intercollegiate competition contrary to such NCAA legislation but in accordance with the terms of a court restraining order or injunction operative against the institution attended by such student-athlete or against the Association, or both, and said injunction is voluntarily vacated, stayed or reversed or it is finally determined by the courts that injunctive relief is not or was not justified, the Management Council may take any one or more of the following actions against such institution in the interest of restitution and fairness to competing institutions:

[19.7-(a) through 19.7-(i) unchanged.]

H. Administrative: Amend 32.1.1, as follows:

32.1.1 Public Disclosure. Except as provided in Bylaw 19 and Bylaw 32, the Committee on Infractions, the Infractions Appeals Committee and the enforcement staff shall not make public disclosures about a pending case, until the case has been announced in accordance with the prescribed procedures. An institution and any individual subject to the NCAA ~~constitution and~~ bylaws involved in a case, including any representative or

counsel, shall not make public disclosure about the case until a final decision has been announced in accordance with prescribed procedures.

I. Administrative: Amend 32.11.2, as follows:

32.11.2 Committee on Infractions' Response to an Appeal. The Committee on Infractions shall submit a response to the Infraction Appeals Committee on each case that has been appealed. This response shall include:

[32.11.2-(a) unchanged.]

(b) The violations of the NCAA ~~constitution and/or~~ bylaws, as determined by the Committee on Infractions;

[32.11.2-(c) through 32.11.2-(g) unchanged.]

FAQ:

Co-sponsorship - Conference:

None

Co-sponsorship - Institution:

None

Position Statements:

Review History:

Jun 30, 2022: Recommends Approval - NCAA Division II Implementation Committee.

Additional Information:

The Division II infractions process has historically considered and cited Constitution 2.1.1, 2.8.1 and 6.01.1 in cases involving an institution's failure to monitor and/or control its athletics programs. With the membership's adoption of the new constitution and specifically new language regarding institutional control and rules, compliance and accountability, the legislated responsibilities for member institutions to monitor and control its athletics programs should be relocated to the bylaws and updated for consistency. Additionally, references to enforcing or regulating the NCAA constitution in Bylaws 19 and 32 should be removed as the NCAA infractions process is not the appropriate authority/process to enforce the NCAA constitution.

Legislative References

| Legislative Cite | Title |
|------------------|---|
| 7.01 | General Principles. |
| 19.01.4 | Violations by Institutional Staff Members. |
| 19.02.1 | Show-Cause Order. |
| 19.1.3 | Duties. |
| 19.5.2.2 | Show-Cause Order. |
| 19.6.4.1 | Obligation of Institution to Take Appropriate Action. |
| 19.7 | Restitution. |

| Legislative Cite | Title |
|------------------|--|
| 32.1.1 | Public Disclosure. |
| 32.11.2 | Committee on Infractions' Response to an Appeal. |

Division: II

Proposal Number: NC-2023-22

Title: ENFORCEMENT POLICIES AND PROCEDURES -- COMMITTEE ON INFRACTIONS HEARINGS -- ACCELERATED HEARING

Convention Year: 2023

Date Submitted: June 14, 2022

Status: Last Review

Effective Date: August 1, 2022

IPOPL Number:

SPOPL Number:

Source: NCAA Division II Management Council (Implementation Committee).

Category: Noncontroversial

Topical Area: Infractions Program and Enforcement Policies and Procedures

Intent: To specify that an institution or involved individual(s) may petition the Committee on Infractions for an accelerated hearing during major infractions cases, as specified.

A. Bylaws: Amend 19.1.2.2, as follows:

19.1.2.2 Authority of Committee Chair. In the interim between meetings of the committee, the chair shall be empowered to act on behalf of the committee, subject to committee approval at its next meeting. If at any time, at a meeting or between meetings, the chair is unavailable to act as such, the vice chair is empowered to exercise the functions of the chair. For each hearing, the committee chair or chair's designee shall serve as the committee's appeals advocate for any appeal of a decision of the committee. If scheduling or availability issues prevent the appeal advocate from serving, the chair may designate another committee member to serve as a substitute. **In major cases, the chair may consider and decide requests by an institution or involved individual for an accelerated hearing.**

B. Administrative: Amend 32.9, as follows:

32.9 Committee on Infractions Hearings.

[32.9.1 unchanged.]

32.9.2 Accelerated Hearing Docket. In major cases, the institution or involved individual may petition the committee chair for an accelerated schedule for written submissions and an earlier hearing date. The petition shall be submitted not later than 14 calendar days after the date of the notice of allegations. The enforcement staff may respond to the petition within five business days. The committee chair may grant or deny such a petition and set a reasonable schedule.

[32.9.2 through 32.9.8 renumbered as 32.9.3 through 32.9.9, unchanged.]

FAQ:

Co-sponsorship - Conference:

None

Co-sponsorship - Institution:

None

Position Statements:**Review History:**

Jun 30, 2022: Recommends Approval - NCAA Division II Implementation Committee.

Additional Information:

Currently, in major cases in which the parties decide to have the case reviewed via a hearing with the Committee on Infractions, the institution and involved individuals have 90 days to respond to a notice of allegations. However, with the accelerated hearing process, the institution or involved individual may petition the committee chair for an accelerated schedule for written submissions and an earlier hearing date. The petition shall be submitted not later than 14 calendar days after the date of the notice of allegations. The enforcement staff may respond to the petition within five business days. The committee chair may grant or deny such a petition and set a reasonable schedule. This proposal provides a quicker processing option for hearings.

Legislative References

| Legislative Cite | Title |
|------------------|------------------------------------|
| 19.1.2.2 | Authority of Committee Chair. |
| 32.9 | Committee on Infractions Hearings. |

Division: II

Proposal Number: NC-2023-23

Title: ENFORCEMENT POLICIES AND PROCEDURES -- APPEAL PROCEDURE -- NOTICE OF INTENT TO APPEAL -- STAY OF PENALTIES

Convention Year: 2023

Date Submitted: June 14, 2022

Status: Review

Effective Date: August 1, 2022

IPOPL Number:

SPOPL Number:

Source: NCAA Division II Management Council (Implementation Committee).

Category: Noncontroversial

Topical Area: Enforcement

Intent: To clarify that when an appeal is properly filed with the Infractions Appeals Committee, penalties prescribed by the Committee on Infractions shall be stayed.

Administrative: Amend 32.11, as follows:

32.11 Appeal Procedure.

32.11.1 Notice of Intent to Appeal. A notice of intent to appeal must be presented in writing to the Infractions Appeals Committee not later than 15 calendar days from the date of the public release of the Committee on Infractions' public infractions decision. The notice of intent to appeal shall contain a statement identifying the date of the public release of the Committee on Infractions' decision and a statement indicating whether the appealing party desires to submit its appeal in writing only or requests an in-person oral argument before the Infractions Appeals Committee.

[32.11.1.1 through 32.11.1.2 unchanged.]

32.11.1.3 Stay of Penalties. If a notice of appeal is filed within the deadline, unless ordered otherwise by the Infractions Appeals Committee, any penalties prescribed by the Committee on Infractions that have been appealed shall be stayed during the pendency of the appeal.

[32.11.2 through 32.11.6 unchanged.]

FAQ:

Co-sponsorship - Conference:

None

Co-sponsorship - Institution:

None

Position Statements:

Review History:

Jun 30, 2022: Recommends Approval - NCAA Division II Implementation Committee.

Additional Information:

If a notice of intent to appeal the Committee on Infractions' decision is filed within the deadline, unless ordered otherwise by the Infractions Appeals Committee, any penalties prescribed by the Committee on Infractions that have been appealed shall be stayed during the pendency of the appeal. The intent of this proposal is to provide transparency to current practices.

Legislative References

| Legislative Cite | Title |
|------------------|-----------------------------|
| 32.11 | Appeal Procedure. |
| 32.11.1 | Notice of Intent to Appeal. |

HOW THE NCAA WORKS:
Division II

The division offers athletics scholarships and limits competitive and practice seasons to improve balance with student pursuits.

The 300 active member colleges and universities in Division II share a commitment to providing college athletes equal growth opportunities in academics, athletics, and campus and community involvement.

Division II schools generally spend less money on athletics than Division I schools and operate on a partial-scholarship model, in which more than 60% of the 123,000-plus Division II athletes receive some athletics-based financial aid. Full scholarships that cover all of a college athlete's expenses are uncommon in the division; often college athletes, like the rest of the student body, use a mix of academic scholarships, student loans and employment earnings to fund their education.

Division II prides itself on creating unique championship opportunities. It is the only division to host championship festivals, where multiple championships are held in the same city over several days. During these championships, teams participate in community engagement efforts, a key component of Division II. Division II's access ratio to championships is the best in the NCAA.

Each Division II championship sport has a committee made up of coaches and athletics administrators with knowledge of that sport. These committees rank and select teams and individuals for championships competition, plus recommend championship sites and dates.

START

New rules for Division II start here, with the schools and athletics conferences that make up the division. No matter the idea - perhaps a university president wants to limit the length of a competition season or an athletics compliance officer wants to change how the NCAA collects information from Division II campuses - it begins as a discussion topic in one or more Division II committees or councils.

Some legislation is proposed by the members themselves. In order to submit a proposal, 15 active Division II schools or two conferences must be sponsors. Those proposals go directly to the NCAA Convention for a vote, but the Division II committees also discuss and take a position on those ideas.

DIVISION II COMMITTEES

Legislation Committee

Interprets Division II-specific legislation and considers wording for the NCAA Division II Manual.

12 members:

Membership Committee

Reviews issues related to Division II membership, including status of incoming and continuing members.

12 members:

Strategic Planning and Finance Committee

Recommends budget priorities to the councils. Oversees strategic plan.

11 members:

Committee for Legislative Relief

Makes final decisions on waiver requests in which no other committee or conference has authority.

5 members:

Academic Requirements Committee

Reviews academic standards and makes recommendations about initial and ongoing eligibility.

11 members:

Committee on Infractions

Meets as needed to participate in hearings involving Division II schools accused of violating NCAA rules.

7 members:

Infractions Appeals Committee

Hears and acts on appeals of decisions by the Committee on Infractions.

5 members:

Championships Committee

Oversees the conduct and administration of the 25 Division II championships.

12 members:

Committee on Student-Athlete Reinstatement

Decides all matters related to reinstating a Division II college athlete's eligibility.

6 members:

Nominating Committee

Suggests individuals who can fill vacancies on various Division II committees.

11 members:

Committees debate the ideas and decide whether to sponsor them as pieces of legislation. Next stop: Management Council, which considers the committees' feedback.

EXECUTIVE BOARD

The top leadership group in Division II is composed of college presidents and chancellors, independent members and student-athletes and establishes and directs general policy.

- » Implements policies adopted by the NCAA Board of Governors.
- » Establishes a strategic plan/strategic priorities for Division II.
- » If necessary, sponsors legislative proposals from the governance structure to be considered by members at the NCAA Convention.
- » Adopts emergency legislation.
- » Approves the Division II budget.
- » Provides comments and input to the Board of Governors on matters that impact Division II and the Association.

13 members:
8 presidents/chancellors based on championships region; 1 at-large president/chancellor to enhance diversity; 2 independent members not salaried by an NCAA member institution, conference or affiliate member; 2 SAAC members

Ex-Officio/Non-Voting
DII Management Council chair

Student-Athlete Advisory Committee

Composed of college athletes who monitor and act on issues.

28 members, including:
1 from each DII conference; 1 representing independent schools; 2 from membership at large; and 2 members from the Management Council.

Administrative Committee

Takes action on issues that arise between meetings of top councils.

5 members:

The Management Council regularly reports to the Executive Board on its actions.

MANAGEMENT COUNCIL

By design, the Management Council is composed of individuals who have day-to-day knowledge of athletics operations.

- » Reviews and acts on recommendations from Division II and Association-wide committees.
- » Serves as the advisory group to the Division II Executive Board, handling the day-to-day affairs of the division.
- » Implements policies adopted by the NCAA Board of Governors and the Division II Executive Board.
- » Adopts noncontroversial legislation.
- » Sponsors legislative proposals from the governance structure to be considered by members at the NCAA Convention.

29 members:
1 from each of 23 voting conferences;
4 at-large positions to enhance diversity;
2 SAAC members

At least:
5 ADs 5 SWAs 5 FARs 2 conference administrators 2 SAAC members

KEY

Legislative path Alternative legislative path Communication path

Executive Board member Student-Athlete Advisory Committee member Representative from American Association of Collegiate Registrars and Admissions Officers Division II president not on Executive Board

Member school and conference athletics administrators, faculty athletics representatives and others who work daily in college sports

Besides the various required roles, the NCAA also works to ensure gender, racial and geographic diversity on its committees. Many of those diversity standards are mandated by legislation.

CONVENTION

The NCAA Convention, held each year in January, is the finish line for all sponsored proposals in Division II. Delegates from every school and conference gather during a Convention business session to place their votes on each proposal.

Proposal

Membership votes

Since the division was established in 1973, it has operated under a "one institution, one vote" model. But in 2016, for the first time, college athletes were added to the mix, with the national Student-Athlete Advisory Committee casting one vote.

In most cases, Division II legislation requires only a simple majority vote of members present. Sometimes - such as in 2015, when the NCAA added beach volleyball as a championship sport - legislation applies to the entire Association, and each division must reach its own majority vote to pass. In still other cases, Association-wide legislation touches on an issue so important that it requires a two-thirds majority vote of all three divisions voting in a joint session.

Legislation approved

Approved proposal takes effect on the date specified in the legislation, usually Aug. 1 of that year.

FINISH

LEGISLATIVE CALENDAR

JULY 15 Have an idea? Legislative proposals submitted by members are due to the national office.

SEPT. 1 Deadline for Executive Board to sponsor legislation to be voted on at the NCAA Convention.

SEPT. 15 Any final revisions to membership-sponsored proposals are due.

NOV. 1 Any amendments to original proposals and any resolutions are due.

DEC. 10 An official Division II notice of legislation, which includes final versions of all the proposals, is delivered to high-ranking individuals at Division II schools, including every president and athletics director.

Guidance for Nominations Process for the Division II Executive Board Independent Members

An independent member of the Division II Executive Board shall have the varied external experiences, stature and knowledge necessary to evaluate the best interests of Division II and objectively contribute to the strategic direction of the division.

If the legislation to amend the composition of the Division II Presidents Council is approved by the membership at the 2023 Convention, the Administrative Committee will oversee the nominations process, including the call for nominations and vetting of nominees. Some initial tools have been drafted for the nominations process and recommend skills, background and experience of the nominees. Reference the flow chart for the draft nominations process.

Independent members on the Division II Executive Board will have demonstrated professional experiences in one or more relevant areas including, but not limited to, business, government, public service, medical/health services and corporate or nonprofit governance. The draft nominees profile chart will assist the Administrative Committee with identifying the skills, background and experience of the nominees that the Executive Board wants to see in candidates.

The Executive Board is committed to ensuring diversity and inclusion of its members. Therefore, the independent members should contribute to the overall diversity (e.g., race, gender, ethnicity, background, experience) of the Division II Executive Board.

Per the 2023 Convention proposal, the legislated definition of independent specifies “an independent member of the Division II Executive Board shall be an individual who is not salaried by an NCAA member institution, conference or affiliated member, and shall be verified as independent by the Executive Board.”

To assist the Executive Board and the Administrative Committee in determining independence, independent nominees will be required to disclose specific relationships ahead of their nomination. These include, but are not limited to, the following associations or employment held currently or within the past three years:

- An immediate family relation to a member of NCAA national office staff.
- An immediate family relation to a membership chancellor/president, commissioner or director of athletics.
- Member of the board of trustees/regents, etc., of a member institution.
- Parent/guardian of a current NCAA student-athlete.
- Employed by a professional sports organization.
- Employed by an athletics apparel organization.
- Employed by an NCAA corporate champion or partner.

- Employed by an NCAA media partner.
- Employed by a supplier to the NCAA national office of goods or services.
- Consultant or contractor to the NCAA national office.
- Booster who has donated a material contribution to a member institution's athletics department or conference.
- Ownership in establishments or casinos that conduct sports wagering.

Please note that none of the above automatically disqualifies a nominee, but it is important information for the Administrative Committee to consider as it recommends nominees to the full Executive Board for approval.

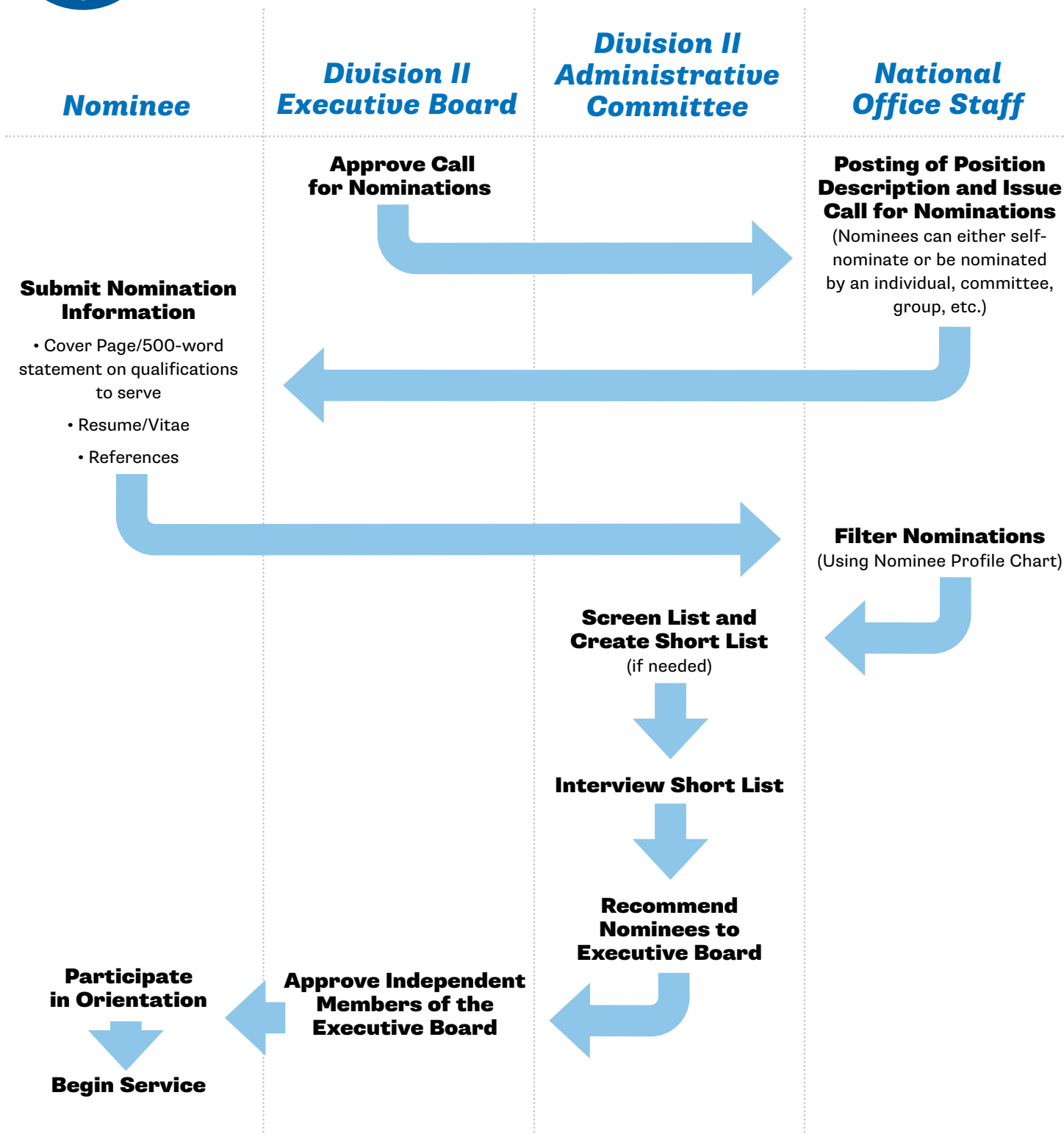
Independent members shall be required to adhere to all Executive Board policies and procedures and sign the NCAA Conflict of Interest Policy, including disclosing any potential conflicts of interest.

This represents an initial draft for the nominations process of independent members to the Division II Executive Board and will be refined if the legislation is adopted in January.



Nominations

PROCESS FOR DIVISION II EXECUTIVE BOARD-INDEPENDENT MEMBERS



DIVISION II

MAKE IT YOURS

Independent Members of the Division II Executive Board Nominee Profiles

| Skills/Background/Experience | Nominee 1 | Nominee 2 | Nominee 3 | Nominee 4 | Nominee 5 | Nominee 6 |
|---|-----------|-----------|-----------|-----------|-----------|-----------|
| Advocacy/communications | | | | | | |
| Arts/theatre/music | | | | | | |
| CEO or enterprise leadership | | | | | | |
| Community relations | | | | | | |
| Diversity and inclusion | | | | | | |
| Entrepreneurial/innovation | | | | | | |
| Financial/accounting/audit | | | | | | |
| Former athletics administrator (e.g., college, professional, national governing body) | | | | | | |
| Former student-athlete | | | | | | |
| Fundraising/development | | | | | | |
| Governance/board | | | | | | |
| Government/public sector | | | | | | |
| Higher education | | | | | | |
| Human resources | | | | | | |
| Legal/regulatory | | | | | | |
| Marketing and sales | | | | | | |
| Medical/health services | | | | | | |
| Operational/service delivery | | | | | | |
| Project management | | | | | | |
| Risk and controls | | | | | | |
| Strategic planning/research | | | | | | |
| Technology/e-commerce | | | | | | |
| Other | | | | | | |
| | | | | | | |
| Independent Guidance Factors (current or within the last three years) | Nominee 1 | Nominee 2 | Nominee 3 | Nominee 4 | Nominee 5 | Nominee 6 |

| | | | | | | |
|--|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| An immediate family relation to a member or NCAA national office staff | | | | | | |
| An immediate family relation to a membership president/chancellor, commissioner or director of athletics | | | | | | |
| Booster who has donated a material contribution to a member school's athletics department or conference | | | | | | |
| Consultant or contractor to the NCAA national office | | | | | | |
| Employed by an athletics apparel organization | | | | | | |
| Employed by a company that takes part in the NCAA Corporate Champions and Partners Program | | | | | | |
| Employed by an NCAA media partner | | | | | | |
| Employed by a professional sports organization | | | | | | |
| Employed by a supplier to the NCAA national office of goods or services | | | | | | |
| Member of the board of trustees/regents, etc., of a member institution | | | | | | |
| Ownership in establishments or casinos that conduct sports wagering | | | | | | |
| Parent/guardian of a current NCAA student-athlete | | | | | | |
| | | | | | | |
| Education | Nominee 1 | Nominee 2 | Nominee 3 | Nominee 4 | Nominee 5 | Nominee 6 |
| Bachelor's degree | | | | | | |
| School | | | | | | |
| | | | | | | |
| Master's degree | | | | | | |
| School | | | | | | |
| | | | | | | |
| Terminal degree (for example, M.D., Ph.D., J.D.) | | | | | | |
| School | | | | | | |
| | | | | | | |

Other information

| | | | | | | |
|--|--|--|--|--|--|--|
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