



A G E N D A
NCAA Division III Administrative Committee Teleconference

[Via Microsoft Teams Videoconference](#)

August 27, 2020
11 a.m. to noon Eastern Time

1. Welcome. (Louise McCleary/Tori Murden McClure)
2. August 20 report. [Supplement No. 1] (McCleary)
3. Approve proposed 2021 NCAA Convention legislation sponsored by the Presidents Council or Management Council. [Supplement No. 2] (Jeff Myers/Bill Regan)
4. COVID-19 impact and updates.
 - a. Championships Committee meeting recap. (Liz Suscha)
 - b. Alternative playing and practice seasons model Q&A. (Myers)
 - c. Membership Committee recommendations. [Supplement No. 3] (Eric Hartung)
5. Other business. (Dutcher)
6. Adjournment.



**REPORT OF THE
NCAA DIVISION III ADMINISTRATIVE COMMITTEE
AUGUST 20, 2020, VIDEOCONFERENCE**

ACTION ITEMS.

1. Legislative Items.

• **Board of Governors Student-Athlete Well-Being Directives.**

(1) Recommendation. The committee considered the following directives to each division from the Board of Governors (BOG):

- All student-athletes must be provided an opportunity to opt out of participation due to concerns about contracting COVID-19. (See Informational Item No. 3 below)
- Appropriate eligibility-related accommodations must be made for student-athletes who opt out of participating this fall or those whose seasons are interrupted or cut short due to COVID-19. (See Informational Item No. 3 below)
- While statements of personal commitment to health and safety are acceptable, member schools may not require student-athletes to waive their legal rights regarding COVID-19 as a condition of athletics participation.
- Divisions must develop rules providing that member schools will cover COVID-19-related health costs related to infections that local health officials reasonably believe were the result of student-athletes' sports participation.

In response to the BOG directives, the Committee, acting on behalf of the Management and Presidents Councils, adopted noncontroversial legislation, effective immediately:

- Specifying that institutions may not require student-athletes to waive their legal rights regarding COVID-19 as a condition of participating in athletics.
- Requiring institutions that decide to engage in outside competition during the 2020 fall term to review existing health care cost coverage with student-athletes to help them make an informed decision about participation. Further, institutions must inform student-athletes of the risk classification of their sports according to the [Resocialization of Collegiate Sport: Action Plan Considerations](#) and provide information about how the school is complying with the [NCAA Resocialization of Collegiate Sport Developing Standards for Practice and Competition](#).

(2) Effective Date. Immediate.

- (3) Rationale. The committee sought feedback from the Presidents Council, Management Council, Presidents Advisory Group, and the executive committees of the D3CA and NADIII AA regarding the BOG directives. The committee noted the following: (1) Fall competition will create increased risk for student-athletes. These risks will vary by sport, local environment, etc. Student-athletes should be aware of these risks and related institutional risk management efforts; (2) Consistent with the intent of the BOG directives, it is inappropriate for student-athletes and their families to unknowingly assume related health care expenses when local health officials apply established contact tracing protocol and identify athletics competition as the source of a student-athletes COVID-19 infection; and (3) Ultimate responsibility related to costs will be determined case-by-case, regardless of a BOG or a divisional legislative mandate.
- (4) Budget Impact. None.
- (5) Student-Athlete Impact. Provides increased knowledge of competition risks, existing student-athlete health and well-being protections, and existing health care cost coverage related to athletically related illness.

2. Nonlegislative items.

- **Fall Competition.**

- (1) Recommendation. The committee recommended that Division III institutions not compete in the fall term to avoid potential increased health and safety risks.
- (2) Effective Date. Immediate.
- (3) Rationale. The committee noted that any fall term competition in the current environment will increase the health and safety risks of student-athletes, coaches, staff and campus communities, as well as create potential health care cost exposure for member institutions and student-athletes.
- (4) Budget Impact. None.
- (5) Student-Athlete Impact. Enhance student-athlete health and well-being and minimize related risk from athletics participation during the fall term.

INFORMATIONAL ITEMS.

1. **Welcome.** The videoconference commenced at 9:02 a.m. Eastern time. Staff welcomed the committee and reviewed the agenda.
2. **July 8, 2020, Report.** The committee approved the July 8, 2020, report with no changes.
3. **Board of Governors Student-Athlete Well-Being Directives – Opt Out Provision.** The committee clarified that for the 2020-21 academic year, all full-time enrolled student-athletes that opt out [i.e., the student-athlete decides not to engage in any activity during or after the first contest], would get a two semester/three quarter extension. [Note: the Division III governance structure previously had [addressed](#) this issue.]
4. **Championships Committee Meeting Recap.** The Administrative Committee did not discuss this issue due to time constraints.
5. **Alternative Playing and Practice Seasons Model Q & A.** The Administrative Committee did not discuss this issue due to time constraints and will discuss on its next teleconference.
6. **Other Business.** Staff thanked Presidents Murden McClure and Miller for their assistance with the recent approval to full-time status for the Division III's assistant director of governance communications, Adam Skaggs.
7. **Adjournment.** The meeting adjourned at 10:04 a.m. EST.

Committee Chair: Tori Murden McClure, Spalding University

Staff Liaisons: Dan Dutcher, Division III Governance

Debbie Kresge, Division III Governance

Louise McCleary, Division III Governance

Jeff Myers, Academic and Membership Affairs

Ali Spungen, Division III Governance

NCAA Division III Administrative Committee August 20, 2020, Teleconference
Attendees:
Heather Benning, Midwest Conference.
Gerard Bryant, John Jay College of Criminal Justice.
Fayneese Miller, Hamline University
Tori Murden McClure, Spalding University
Dennis Shields, University of Wisconsin, Platteville.
Staff:
Dan Dutcher, Debbie Kresge, Louise McCleary, Jeff Myers, Adam Skaggs, Ali Spungen, Liz Suscha and Jeremy Villanueva.

Student Athlete Use of Name Image and Likeness for Promotional Purposes

Convention Year: 2021.

Effective Date: August 1, 2021.

Source: NCAA Division III Presidents Council [Management Council (Interpretations and Legislation Committee)].

Category: Presidents Council.

Topical Area: Amateurism.

Status: Ready for Consideration by Administrative Committee.

Intent: To permit Division III student-athletes to use their name, image and likeness, to promote their own work product or services and to promote third party products and services.

A. Bylaw: Amend 12.02 as follows:

12.02 Definitions and Applications.

12.02.1 Agent. An agent is any individual who, directly or indirectly:

(a) Represents or attempts to represent an individual for the purpose of marketing his or her athletics ability or reputation ~~for financial gain; or~~ **to secure professional sports opportunities.**

[Remainder of 12.02, unchanged]

B. Bylaw: Amend 12.1.3, as follows:

12.1.3 Amateurism Status -- Before Initial, Full-Time Collegiate Enrollment. Before initial, full-time collegiate enrollment, an individual's amateur status shall be determined using the following:

12.1.3.1 Permissible Activities -- Before Initial, Full-Time Collegiate Enrollment. Before initial, full-time collegiate enrollment, an individual may engage in the following without jeopardizing his or her amateur status:

[Bylaw 12.1.3.1(a) through (r) unchanged]

(s) Name, Image and Likeness. An individual may use their name, image and likeness to promote their own work product or service, or a third-party product or service in the same manner as student-athletes (see Bylaw 12.5.2).

[Remainder of 12.1.3, unchanged]

C. Bylaw: Amend 12.3 as follows:

12.3 Use of Agents

12.3.1 General Rule. An individual shall be ineligible for participation in an intercollegiate sport if he or she ever has agreed (orally or in writing) to be represented by an agent **to secure professional sports opportunities** ~~for the purpose of marketing his or her athletics ability or reputation in that sport~~. Further, an agency contract not specifically limited in writing to a sport or particular sports shall be deemed applicable to all sports, and the individual shall be ineligible to participate in any sport.

12.3.1.1 Representation for Future Negotiations. An individual shall be ineligible per Bylaw 12.3.1 if he or she enters into a verbal or written agreement with an agent for representation in future professional sports negotiations that are to take place after the individual has completed his or her eligibility in that sport.

12.3.1.2 Benefits from Prospective Agents. An individual shall be ineligible per Bylaw 12.3.1 if he or she (or his or her relatives or friends) accepts transportation or other benefits from: *(Revised: 1/14/97)*

- (a) Any person who represents any individual **with the intent of securing professional sports opportunities** ~~in the marketing of his or her athletics ability~~. The receipt of such expenses constitutes compensation based on athletics skill and is an extra benefit not available to the student body in general; or
- (b) An agent, even if the agent has indicated that he or she has no interest in representing the student-athlete **with the intent of securing professional sports opportunities** ~~in the marketing of his or her athletics ability or reputation and does not represent individuals in the student-athlete's sport~~. *(Adopted: 1/14/97)*

[Bylaws 12.3.2 through 12.3.3, unchanged]

12.3.4 General Rule -- Professional Service Providers. A student-athlete may use the services of a professional service provider in the following name, image and likeness activities:

- (a) Advice regarding name, image and likeness activities;**
- (b) Representation in contract negotiations related to name, image and likeness activities; and**
- (c) Marketing of the student-athlete's name, image and likeness activities.**

12.3.4.1 Limitation on Marketing Athletics Ability or Reputation. A professional service provider that represents a student-athlete in name, image and likeness

activities may not also represent a student-athlete for the purpose of marketing their athletics ability or reputation in order to secure a professional sports contract.

12.3.4.2 Institutional Involvement. An institution may provide information and education related to name, image and likeness activities and may assist a student-athlete with evaluating professional service providers related to such activities. However, an institution may not identify or select a professional service provider or arrange for or provide payment for services rendered to the student-athlete.

12.3.4.3 Institutional Employees. An institutional employee may not be employed as a professional service provider for a prospective student-athlete's name, image and likeness activities.

D. Bylaw: Amend 12.5 as follows:

12.5 Promotional Activities.

12.5.1 Permissible. Student-athletes may participate in promotional activities as provided in this bylaw. Any promotional activity not listed is specifically prohibited.

[12.5.1.1 through 12.5.1.1.4, unchanged]

~~12.5.1.1.5 Use of a Student Athlete's Name or Picture without Knowledge or Permission. If a student athlete's name or picture appears on commercial items (e.g., T-shirts, sweatshirts, serving trays, playing cards, posters) or is used to promote a commercial product sold by an individual or agency without the student athlete's knowledge or permission, the student athlete (or the institution acting on behalf of the student athlete) is required to take steps to stop such an activity in order to retain his or her eligibility for intercollegiate athletics. Such steps are not required when a student-athletes photograph is sold by an individual or agency (e.g., private photographer, news agency) for private use. (Adopted: 1/14/02, Revised: 4/11/06)~~

[12.5.1.1.6 through 12.5.1.1.7, unchanged]

~~12.5.1.2 U.S. Olympic and Paralympic Committee or National Governing Body Advertisement Before Collegiate Enrollment. Before initial, full-time collegiate enrollment, an individual may receive payment for the display of athletics skill in a commercial advertisement, provided: (Adopted: 1/11/94, Revised: 1/22/20 effective 8/1/20)~~

- ~~(a) The individual receives prior approval to appear in the advertisement from the U.S. Olympic and Paralympic Committee or the applicable national governing body; (Revised: 1/22/20 effective 8/1/20)~~
- ~~(b) The U.S. Olympic and Paralympic Committee or national governing body approves of the content and the production of the advertisement; (Revised: 1/22/20 effective 8/1/20)~~
- ~~(c) The individual forwards the payment to the U.S. Olympic and Paralympic Committee or national governing body for the general use of the organization(s); and (Revised: 1/22/20 effective 8/1/20)~~
- ~~(d) The funds are not earmarked for the individual.~~

~~12.5.1.3 Modeling and Other Nonathletically Related Promotional Activities. It is permissible for an individual to accept remuneration for or permit the use of his or her name or picture to advertise or promote the sale or use of a commercial product or service without jeopardizing his or her eligibility to participate in intercollegiate athletics only if all of the following conditions apply: (Revised: 1/14/97, 1/12/04)~~

- ~~(a) The individual became involved in such activities for reasons independent of athletics ability;~~
- ~~(b) No reference is made in these activities to the individual's involvement in intercollegiate athletics; and (Revised: 1/12/04)~~
- ~~(c) The individual's remuneration under such circumstances is at a rate commensurate with the individual's skills and experience as a model or performer and is not based in any way upon the individual's athletics ability or reputation.~~

[12.5.1.4 and 12.5.1.4.1, unchanged]

~~12.5.1.4.2 Commercial Advertisements Not Permitted. If, before enrollment at a member institution, the student athlete received remuneration for endorsing a commercial product or service through the student athletes use of such product or service and the student athlete does not meet the requirements of Bylaw 12.5.1.3 or 12.5.1.4, the student athlete must take appropriate steps once becoming a student athlete at a member institution to retract permission for the use of his or her name or picture and must cease receipt of any remuneration for such an arrangement in order to retain his or her eligibility. (Adopted: 1/14/02, Revised: 1/10/05)~~

~~12.5.1.4.3 Use of a Student Athlete's Name or Picture without Knowledge or Permission. If a student athlete's name or picture appears on commercial items (e.g., T-shirts, sweatshirts, serving trays, playing cards, posters) or is used to promote a commercial product sold by an individual or agency without the student athlete's knowledge or permission, the student athlete (or the institution acting on behalf of the student athlete) is required to take steps to stop such an activity in order to retain his or her eligibility for intercollegiate athletics. Such steps are not required when a student athletes photograph is sold by an individual or agency (e.g., private photographer, news agency) for private use. (Adopted: 1/14/02, Revised: 4/17/07)~~

[12.5.1.5 unchanged]

~~12.5.1.6 Educational Products Related to Sport Skill Instruction. It is permissible for a student-athlete's name or picture to appear in books, articles and other publications, films, videos, and other types of electronic reproduction related to sport skill demonstration, analysis or instruction, provided: (Revised: 1/31/18)~~

~~(a) Such print and electronic media productions are for educational purposes;~~

~~(b) There is no indication that the student-athlete expressly or implicitly endorses a commercial product or service;~~

~~(c) The student athlete receives only actual and necessary expenses related to such participation; (Revised: 1/9/06)~~

~~(d) The student athlete does not miss class; and (Revised: 1/9/06)~~

~~(e) The student athlete has signed a release statement ensuring that the student athlete's name or image is used in a manner consistent with the requirements of this section and has filed a copy of the statement with the student athlete's member institution.~~

12.5.1.7 Camps and Clinics. A member institution may use the name or picture of any student-athlete to publicize or promote its camps or clinics, including the use of the student-athlete's name or picture in camp brochures or other advertising. ~~However, a privately owned camp or clinic may only use the name or picture of any student athlete employed as a counselor to publicize or promote the camp or clinic. [D]~~

[12.5.1.8 through 12.5.1.11.1.1, unchanged]

~~12.5.2 **Student-athlete Promotional Activities** –Media Activities. A student athlete may participate in media activities (e.g., appearance on radio, television, in films or stage productions, or participate in writing projects) and may receive legitimate and normal expenses when the student athlete's appearance or participation is related in any way to athletics ability or prestige. The student athlete may engage in such activities at any time and may receive compensation at a rate commensurate with the going rate in that locale for similar services. Further, the student-athlete's name may be used to advertise his or her participation in such activity, provided the student athlete's status as a student-athlete is not used for promotional purposes. (Adopted: 1/14/97, Revised: 1/8/01 effective 8/1/01)~~

12.5.2.1 Student-Athlete Work Product and Services. A student-athlete may use their name, image and likeness to promote their athletically and nonathletically related work product and services.

12.5.2.1.1 Restrictions. A student-athlete shall not receive compensation for athletics performance or participation. In addition, potential promotional opportunities shall not be provided as an inducement for enrollment (see Bylaw 13.2).

12.5.2.1.2 Institutional Involvement. An institution may provide information and education related to name, image and likeness activities and may assist a student-athlete with evaluating professional service providers related to such activities (see Bylaw 12.3.5). Neither the institution nor an institutional staff member shall be involved in the development, operation or promotion of a student-athlete's business activity except to the extent such is provided to students generally at the institution.

12.5.2.1.3. Use of Institutional Marks. A student-athlete's promotion of their work product or service may include a reference to the student-athlete's involvement in intercollegiate athletics and a reference to their institution consistent with institutional policies applicable to any student. A student-athlete must adhere to all applicable institutional processes for use of institutional marks in a manner consistent for the general student-body.

12.5.2.1.4. Use of Professional Service Providers. See Bylaw 12.3.

12.5.2.2 Advertisements and Promotions. A student-athlete may permit the use of their name, image or likeness and receive remuneration to advertise or promote the sale or use of a commercial product or service.

12.5.2.2.1 Restrictions. A student-athlete shall not receive compensation for athletics performance or participation. Additionally, potential promotional opportunities shall not be provided as an inducement for enrollment (see Bylaw 13.2).

12.5.2.2.2 Specifically Prohibited Promotional Activities. A student-athlete shall not engage in promotional activities for a product or service that, per NCAA policy, is specifically prohibited from being promoted during an NCAA championship.

12.5.2.2.3 Conflicts with Institutional Agreements and Other Considerations. An institution or conference, at its discretion, may prohibit a student-athlete from engaging in promotional activities that may conflict with institutional or conference values, to the same extent students generally are prohibited from engaging in those promotional activities.

12.5.2.2.4. Use of Institutional Marks. A student-athlete may include a reference to the student-athlete's involvement in intercollegiate athletics and a reference to their institution, consistent with institutional policies applicable to any student. A student-athlete must adhere to all applicable institutional processes for use of institutional marks in a manner consistent for the general student-body.

12.5.2.2.5 Use of Professional Service Providers. See Bylaw 12.3.

[Remainder of 12.5, unchanged]

Rationale: This proposal would permit Division III student-athletes to benefit from the use of their name, image and likeness in a manner that is consistent with the NCAA Board of Governors' guiding principles and with the Board's direction to consider appropriate rules changes based on recommendations from the Federal and State Legislation Working Group. These recommendations fall into two categories: (1) activities related to a student-athletes work product or service; and (2) promotion/endorsement of third-party products and services. Student-athletes should have full use of their name, image and likeness for commercial promotional purposes. Importantly, these opportunities can occur in a manner that is consistent with the NCAA's core values, mission and principles, while prioritizing student-athlete well-being. Further, the recommended administrative framework for these legislative changes ensures that the legislation will be transparent and enforceable, in line with the Board's principles.



REPORT OF THE
NCAA DIVISION III MEMBERSHIP COMMITTEE
AUGUST 20, 2020, VIDEOCONFERENCE

ACTION ITEMS.

1. Legislative Items.

- **Membership – Division III Membership Requirements – Sports Sponsorship – Minimum Contests and Participants Requirements for Sports Sponsorship – Bylaw 20.11.3.8.**

- (1) Recommendation. Approve a waiver to eliminate the minimum number of contests and participants required for sports sponsorship for fall championship sports and winter championship sports.
- (2) Effective Date. September 1, 2020, to August 31, 2021.
- (3) Rationale. The committee seeks to provide relief for institutions related to disruptions and uncertainty resulting from the COVID-19 pandemic. Specifically, relief is intended to:
 - (a) Help Division III institutions remain in compliance with NCAA Bylaw 20 membership legislation;
 - (b) Guide institutions as they determine the best model for providing the student-athlete experience in the 2020-21 academic year; and
 - (c) Reduce the administrative burden for institutions seeking relief.

In recent weeks, most Division III member institutions and conferences have announced their intention to postpone intercollegiate competition until after January 1, 2021, due to continued uncertainty surrounding the COVID-19 pandemic. These decisions will inevitably result in increased scheduling challenges as institutions attempt to provide meaningful experiences for student-athletes despite a compressed calendar and facilities challenges. Additionally, on August 20, 2020, the Division III Administrative Committee recommended members schools not compete in the fall term to avoid potential increased health and safety risks, while establishing criteria for schools that decide to compete.

The elimination of minimum contest and participant requirements for fall championship sports and winter championship sports would provide each institution with the flexibility to determine how to best conduct outside competition on their campus (i.e., reduced outside competition, full outside

competition). It would also allow institutions to provide a safe student-athlete experience in the best way possible without the restrictions of minimum sponsorship for those sports.

The list of affected sports is as follows:

Fall sports: Men's and women's cross country, field hockey, football, men's and women's soccer, women's volleyball and men's water polo.

Winter sports: Men's and women's basketball, women's bowling, men's and women's fencing, men's and women's gymnastics, men's and women's ice hockey, men's and women's rifle, men's and women's skiing, men's and women's swimming and diving, men's and women's indoor track and field and men's and women's wrestling.

The committee acknowledged the impact this waiver will have on the overall sports-sponsorship requirements outlined in Bylaw 20.11.3 (i.e., at least one sport per season, five or six sports per gender based on student enrollment and at least three team sports) and also will provide flexibility in these areas of the legislation. Additionally, the committee noted it will review the minimum contest and participants requirements for spring championship sports as more information becomes available.

The committee encourages institutions to make their best efforts to safely conduct these sports during the 2020-21 academic year as the legislated minimum contest and participant requirements will be in effect for the 2021-22 academic year. The current contest and participant minimums for NCAA championship qualification are not impacted by this proposed change.

- (4) Budget Impact. None.
- (5) Student-Athlete Impact. Provides flexibility for institutions to determine the best possible approach to conduct their athletics program in a way that ensures the health and safety of student-athletes and the best possible format to ensure a meaningful athletics experience for the most student-athletes possible.

2. Nonlegislative Items.

- None.

INFORMATIONAL ITEMS.

1. **Welcome and Announcements.** The videoconference commenced at 1:02 p.m. Eastern time Thursday August 20, 2020.
2. **Roster and Conflict of Interest.** Committee members were reminded of the NCAA Conflict of Interest Policy and proper procedures for recusal if a conflict of interest might arise. Committee members followed the recusal procedures during all deliberations.
3. **Review July 16, 2020, Meeting Report.** The committee reviewed its July 16, 2020, videoconference report and recommended item 7-d be revised from Wesley College (Massachusetts) to Wesley College (Delaware). The committee approved the report as revised.
4. **Review of Athletics Program Assessments.** The committee reviewed and approved the athletics program assessments from the following institutions, which they were required to submit as a result of the committee's review following year one:
 - a. Centenary University (New Jersey);
 - b. La Roche University; and
 - c. Mount Aloysius College.

The committee also reviewed and approved the athletics program assessment from the University of Rochester, which was required to submit a program assessment in year one of its probationary period as a result of its failure to submit a completed 2018-19 institutional self-study guide by the required deadline.

5. **Review of Pomona-Pitzer Athletics Consortium Waiver Extension Request.** The committee reviewed and approved an extension request from Pomona-Pitzer athletics department for filing its athletics consortium waiver.
6. **Update on Sports Sponsorship and Demographics Form Submissions.** The committee agreed to postpone this item until its September videoconference.
7. **Update on Manor College Virtual Campus Visit.** The committee reviewed the agenda for the Manor College virtual campus visit scheduled for September 15-16, 2020, and took no action.
8. **Update on September 10, 2020, New Member Orientation.** Staff updated the committee on the status of the 2020 New Member Orientation. The committee took no action.

9. **Update on Provisional, Reclassifying and Exploratory Membership.** The committee agreed to postpone this item until its September videoconference.
10. **Update on Division III Active Membership.** The committee agreed to postpone this item until its September videoconference.
11. **Recent Actions by Division III Administrative Committee and Other Groups.** The committee agreed to postpone this item until its September videoconference.
12. **Future Meeting Update.** The chair noted the upcoming September 17, 2020, videoconference and the possibility of an additional meeting if necessary.
13. **Other Business.** None.
14. **Adjournment.** The committee concluded its business and adjourned at 3:19 p.m. Eastern time.

Committee Chair: Laura Mooney, Massachusetts College of Liberal Arts, Massachusetts State Collegiate Athletic Conference

*Staff Liaisons: Eric Hartung, Division III Research
 Tiffany Alford, Academic and Membership Affairs
 Corey Berg, Academic and Membership Affairs*

NCAA Division III Membership Committee August 20, 2020, Videoconference
Attendees:
William Fell, United States Merchant Marine Academy.
Michael Frandsen, Wittenberg University.
Jan Hathorn, Washington and Lee University.
Jessica Huntley, Atlantic East Conference.
Charles Jacobs, St. Norbert College.
Erica Lemm, Mount Holyoke College.
Monique McLean, Trinity Washington University.
Laura Mooney, Massachusetts College of Liberal Arts.
Elliott Strickland, Pennsylvania College of Technology.
Megan Valentine, Hilbert College.
Absentees:
None.
NCAA Staff Support in Attendance:
Tiffany Alford, Corey Berg, Debbie Brown and Eric Hartung.
Other NCAA Staff Members in Attendance:
Dan Dutcher, Louise McCleary and Jeff Myers.